Tros Tyriusque mihi nullo discrimine agetur

NORTH AMERICAN REVIEW

APRIL, 1914

WE APPEAL TO THE PRESIDENT

To Save Mexico; to Save His Party; to Save Himself.

BY THE EDITOR

"The large thing to do is the only thing we can afford to do—a voluntary withdrawal from a position everywhere questioned and misunderstood. We ought to reverse our action without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and the redemption of every obligation without quibble or hesitation."

Those words, Mr. President, spoken by you as the head of the Nation to the Congress of the United States upon the first day of your second year in office were more than worthy, more than courageous; they were noble. They breathed the sense of National honor; they were shot through with patriotic feeling; they evinced the power of personal greatness to acknowledge and repair a fault. And they will serve the purpose for which they were uttered—never fear!

Pending the accomplishment of that great triumph which is to be yours, may we not ask you to perform the more pressing duty of turning your eyes upon the stricken people of bleeding Mexico, and consider—consider in candor and with the deep solicitude which we know you feel—whether

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you may not apply those words to them. Is not our attitude toward them also "everywhere questioned and misunderstood"? We think and presently shall try to convince your mind that it is. If we shall succeed in that endeavor, is not "the large thing to do the only thing we can afford to do"—a reversal of our action "without raising the question whether we were right or wrong, and so once more deserve our reputation for generosity and the redemption of every obligation without quibble or hesitation"?

Four months have elapsed since we raised the questions—

> What legal or moral right has a President of the United States to say who shall or shall not be President of Mexico? and
>
> Did not President Wilson imbed himself in a practically inextricable position when he demanded the retirement of Huerta?

and the only answers forthcoming are to be found in a consensus of the world's opinion and in a hopelessly tangled diplomatic situation surcharged with peril. But no! That is not strictly accurate. You answered the first question, Mr. President, when you recognized the Huerta of Peru, and you answered the second when you urged so impressively upon the Congress, as a primary reason for repudiating a pledge of your own party platform, the necessity of mollifying foreign Powers.

The partisan attacks to which you are now being increasingly subjected constitute, we suspect, the least of your anxieties. Senators and Representatives who demand "action" which would lead to armed intervention may reflect the opinion of their own restricted constituencies, but they wholly misinterpret the wish of the country. Never was a war so unpopular, so hateful in the eyes of the people, as would be a war now with distracted Mexico. Whether avoidance thus far is fairly attributable to your sagacity and forbearance, or to mere good fortune, or to both, matters not at all; the country is grateful, sir, deeply grateful to you for sparing them the calamity which unhappily so many are coming to regard as inevitable.

Nor does one whit of justice lie in the strident criticisms of your course as "inert" and "lifeless." You have done all that lay within your power to do in furtherance of the success of your programme. Never before to our knowledge, while their countries were at peace and resolved to continue in amicable relationship, has one President de-

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clared war upon another President. Yet that is what you did without a quiver of hesitation. And you did not stop there. You certainly struck deep and hard in those days early in November when the following declaration was served upon Huerta, as coming from the President of the United States:

Primero: Que el primero magistrado considera que el reciente golpe de estado fue una contravencion directa de la seguridades que el, Huerta, había dado á su gobierno.

Segundo: Que á menos de que el, Huerta, voluntariamente y obrando como por propio inspiracion se retire luego del poder y abandone todo idea de controlar la organizacion del gobierno y el curso de los negocios, el primer magistrado se verá en la necessidad de entrevenir en los terminos de un ultimatum que al ser rechazada le obligará á proponer al congreso de su pais que se tomen medidas practicas de la mas seria naturaleza.

Tercero: Que el gobierno del primero magistrado desea sinceramente de evitar las medidas extremas tanto por el bien de Mexico como por el bien de la paz de America, y esta por el mismo dispuesto á hacer algo rasonable á fin de no herir los sentimientos de dignidad de Huerta y para darle la proteccion personal que necessitaré.

Cuarto: Que por tal motivo, propone el siguiente curso que se escoja alguno persona ó pequeño groupo de personas que en lo menos possible hayan estado ligados con los recientos pertubaciones politicos (por ejemplo, personas de edad maduro retirados de la politica que goza de le confianza general del publico), al fin de que constituye un gobierno constitucional y hagan los arreglos necessarios para elecciones generales en las que se elijan un nuevo congreso y un nuevo jefe del ejecutivo, para que asi el queda establicido sobre una base constitucional.

Quinto: Que hace absolutamente necessario una acción semejante al fin de que mereza la aprobacion del primero magistrado, pues su gobierno esta firme y irevocablemente resuelto, por un medio ú otro, á cortar de rais toda ayuda el, Huerta, crea encontrar en el estranjero, si es que insiste en su proposito de permanecer en el poder, siendo ademas un hecho que solamente por algunas dias mas podra el, Huerta, tener la libertad de escojer el camino que desea seguir. Su retiro y una libertad absoluto de accion de reabilitar el poder constitucional será el unico que el primero magistrado acepte. Este gobierno no podra urgir con demasiado vehemencia el que haga su eleccion, ya que es inevitable, con todo sabiduria y en plena consideracion de las teribles consequencias que traeran su vacilacion ó rehuso.

Sexto: Que el, proposito de substituir á Blanquet ó cualquiero otro representante del gobierno de Huerta y de su golpe de estado conduceria á una irritacion mayor de parte del primero magistrado y la inevitable ruptura definitiva, asi como tambien daría el mismo resultado el pretender llevar al poder á los supuestos escogidos en las ultimas elecciones, sea para presidente ó miembro del congreso.

Or, as re-translated:

First: That the first magistrate is of the opinion that the recent coup

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d'état was a direct violation of the assurances which Huerta gave his government.

Second: That unless Huerta, voluntarily and on his own initiative, retires at once from power and abandons every idea of controlling the organization of the government and the conduct of negotiations, the first magistrate will find himself under the necessity of intervening by means of an ultimatum, and if this is not accepted he will be obliged to propose to the congress of his country the adoption of practical measures of a most serious nature.

Third: That the government of the first magistrate sincerely desires to avoid extreme measures, as much for the sake of Mexico as for the sake of peace in America, and is of itself disposed to act reasonably in order not to wound Huerta's sense of dignity, and at the same time to give Huerta the personal protection he might need.

Fourth: That with this purpose in view it proposes the following: that there be selected some person, or small group of persons which to the least possible extent shall have been connected with the recent political disturbances (for example, men of mature age who have retired from the field of politics and who enjoy the confidence of the people), who shall form a constitutional government and make whatever arrangements may be necessary for a general election. In these elections there shall be selected a new congress and a new chief executive, to the end that the government be established on a constitutional basis.

Fifth: That such a course is absolutely necessary to the end that he (the chief executive) merit the approval of the first magistrate, for the reason that the government of the chief magistrate has firmly and irrevocably decided, by one method or another, to eliminate completely all assistance that Huerta believes he may receive from foreign sources, if he persists in his proposal to remain in power, it being a further fact that only for a few days longer will he, Huerta, be free to select the course he chooses to follow. His withdrawal, and consequent absolute liberty of action in the re-establishment of constitutional power, alone will be accepted by the chief magistrate. This government cannot urge with too much insistence, now that the outcome is inevitable, that Huerta reach his decision wisely and at the same time give full consideration to the terrible consequences which will follow his vacillation or refusal.

Sixth: That the proposal to substitute Blanquet, or any other representative of the government of Huerta, or any one connected with his *coup d'état*, will conduce to further irritation on the part of the first magistrate and inevitable and definite rupture. The same result will follow any effort to place in power the candidates chosen at the last election, be it for president or member of congress.

And when the old Indian coolly ignored this demand, you did not shrink from inviting the criticism of your own countrymen by lifting the embargo upon guns which, like those in the Philippines, may at no distant day be turned upon our own soldiers. No, Mr. President, it is not from lack of energy or resolution that your attempt to apply political eugenics to Mexico in a schoolmasterful way has

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failed. It is from the fatal defect within the policy itself—the futile threat which, as we declared in November, "instead of eliminating Huerta from power, riveted him in his place, there to remain, in all probability, until he shall be expelled by force of arms." This judgment, based upon certain logic, has now found general acceptance, and it is to that most important fact, Mr. President, that we would direct your attention.

No writer has made it so clear as you that "the only force" that can control a President in shaping his course with respect to large matters of public policy is "the force of Public Opinion." But Public Opinion is no less subject to change than individual judgment, and, if it is to be accepted as a true guide, it must be examined and interpreted at frequent intervals. When, in November, we urged upon you manful reversal of a policy which we then believed to be and which has since proved to have been untenable, we did not assume to reflect the common view. We could not but feel that much of the seeming approval was no more than natural and praiseworthy restraint; but there were few evidences to that effect, and you were quite justified in assuming that your attitude had won general commendation. The newspaper Press in particular was notably insistent and steadfast in support of your determination to drive Huerta from his position of authority. But is it so now? Let us mark the indications afforded by our leading journals. We quote:

From the Washington *Post:*

The people of the United States have, during the past ten months, given to the President and his Secretary of State a most remarkable proof of their confidence in their sincerity of purpose. The more remarkable inasmuch as many of them have failed to see that the rights of our citizens were as fully protected as desired, or that "the watching and waiting" policy was either beneficial to Mexico, to the United States, or fair to the citizens or subjects of foreign nations.

That it has not brought peace or happiness to the people of Mexico must be admitted.

That it has been productive of immense losses to American, British, German, French, and Spanish investors is apparent to all.

That it has advanced the peace interests of the world is exceedingly doubtful.

That it was and is producing friction in our foreign relations would seem to be as clear as diplomatic secrecy will permit the public to judge.

From the New Orleans *Picayune:*

Strong as has been President's Wilson's policy with respect to matters

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of domestic concern, it must be admitted with regret that his attitude toward Mexico has been extremely weak and vacillating. Americans have been told to leave the country, as their government either could not or would not protect them. Foreigners, both Americans and Europeans, have been maltreated and their property seized or pillaged, yet nothing has been done other than the presentation of feeble protests.

As a result of this course foreign governments have lost all confidence in our ability to control the Mexican situation, and as they have no reason to expect anything from the revolutionists, they are quietly financing Huerta in the belief that he is the only man in Mexico capable of maintaining at least a show of order.

Whether or not it be a fact that foreign governments are "quietly financing" Huerta, there can be no question that he is well supplied with means.

From the San Francisco *Argonaut:*

That President Wilson still hopes for the establishment of peace and order in Mexico in the spirit of her parchment constitution is simply evidence of the failure of a man of academic mind to distinguish between fact and theory. So long as Mr. Wilson shall maintain his present views, and his present course of action Mexico must suffer under that combination of cruelties and terrors so forcibly described in a letter from the City of Mexico printed in last week's *Argonaut.* One well-intentioned but unfortunately misinformed and curiously stubborn man is practically holding Mexico prostrate to be scorched and flayed. It is truly a terrible responsibility.

These are strong words from a journal accustomed to weigh its utterances; we dislike to print them; but how else can Public Opinion be revealed?

From the Boston *Transcript:*

We have tried "watchful waiting," only to abandon it in favor of the even more mischievous policy of pouring oil on the flames of civil war. Some of the bullets that pierced Benton's body may have been supplied to Villa from this country in consequence of the raising of the embargo on arms. To "watchful waiting" bloody blundering has succeeded.

From the Boston *Herald:*

One way out of this calamitous course remains—with honor. There is still a chance to avert war. It is to recognize Huerta, and further than that to strengthen his hand. We should renew the embargo on arms to the bandits.

It may be that this step would come too late, that our policy has so weakened Huerta that he can no longer restore order. But he deserves the chance. He has clearly established his claim as the *de facto* ruler of Mexico. And until we have given him the opportunity we are not justified in making the sacrifice that armed intervention would entail.

From the Manchester *Union:*

Conditions south of the Rio Grande are certainly no better, and probably much worse to-day than they were at the beginning of the Wilson

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Administration—and Heaven knows they were bad enough then. The policy of "watchful waiting" has been, to put it brutally, a policy of idleness.

Huerta, in an interview, declares that the present situation in Mexico is due to the United States; and, in a sense, he is right.

From the Burlington *Free Press:*

Having failed to recognize the established Government in the capital of Mexico, and thus waived the right to hold Huerta's administration responsible for the protection of Americans in all Mexican territory, the Wilson Administration seems to have made the further mistake of recognizing in effect and aiding a rebel leader, in the person of Villa, even more bloodthirsty than Huerta was in connection with the overthrow of Madero.

Here, too, the precedents are strongly against the Wilson Administration, and in view of Mr. Wilson's recent utterances in defense or palliation of Villa, who has killed Americans as well as British, it is not strange that Dr. Moore declined to allow his prestige as an international authority to suffer further from the smashing of precedents.

If President Wilson should undertake to follow the intervention of which he has already been guilty and which was in reality an act of war, by sending a military force into Mexican territory and thus instituting armed intervention, he will find it difficult to vindicate his course in the eyes of the nations as well as of the American people.

From the Brooklyn *Eagle:*

The policy of the administration, so far as it is generally understood, contemplates the scheme of Mexico working out her own destiny as a result of her present internal warfare, so that constitutional government will be restored, at least so far as it ever existed in the republic south of the Rio Grande. Those who adhere to this policy, however, say frankly they see no hope whatever that Mexico, through the agency of Villa, Carranza, Zapata, or any of the other revolutionary and bandit leaders, can restore constitutional government. Many of them admit that Huerta might have done so, with the aid of the United States; or at least might have succeeded in pacifying Mexico, even if he only brought about a restoration of the practical despotism that existed under Porfirio Diaz.

From the St. Johnsbury *Caledonian,* the leading weekly newspaper of Vermont:

Defeated in his whole programme to date, President Wilson should adopt another and recognize the Huerta government in Mexico the same as he recognized the new revolutionary government in Peru. Such a change in tactics may prevent a war with Mexico, and President Wilson, if he desires to save the country from one of its most serious blunders, will make it. The question now is not, is Huerta big enough to control Mexico, but is President Wilson big enough to acknowledge his mistake and save his country from the terrible misfortune it is now facing?

From the New York *Mail:*

While the Wilson Government has recognized the brutal dictatorship of Yuan Shi-Kai in the pretended Chinese Republic, it has refused to recognize the Huerta Government in Mexico, accepted by all other important nations, and has plainly encouraged the murderous and looting

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forces of the rebels, led by notorious and savage bandits, in a hopeless and shameful chaos of destruction that means the complete devastation of a rich and neighboring country or American armed intervention.

The dignity and authority of the United States as the protagonist of the American republics has been openly insulted and mocked in Mexico by the grafters of the South and the cutthroats of the North, and our national prestige in Latin America has been seriously damaged.

Meantime the Wilson administration has made the United States responsible for Mexican conditions that must go from bad to worse until, apparently, the horrors and losses must end in bloody intervention.

From the Sioux City *Journal:*

The weak point of the Administration has been found in its foreign policy. The Mexican situation has proved an unworkable puzzle. There is a prevailing impression that President Wilson and Secretary Bryan have not made the most of their opportunities diplomatically.

The great European powers, following precedent which represents demonstrated expediency, promptly recognized the Huerta Government as the *de facto* Government. Mr. Bryan at once took the rôle of a diplomatic white blackbird when he refused to recognize that Government or even to deal in regular form with it. The worst of his demand that General Huerta abdicate was not its grotesqueness. It virtually invited all disaffected rebel and bandit elements in the north and elsewhere to assert themselves. It crippled the central Government by injuring its credit, which was otherwise sufficient to raise ample funds in Europe. When bandit forces, thus encouraged and energized, had coalesced, the removal of the embargo furnished them with arms, ammunition, and supplies of all kinds, for which they were able to raise money by wholesale confiscation and robbery.

But right at this point startling outrages force upon the world's attention the fact that the rebel government, both in its personnel and in its methods of gaining and of using power, is incomparably worse than the worst that has been imputed to the central Government, of which General Huerta is still *de facto* head after a year of rule. Disavowing intervention, we have thus in effect intervened against the actually existent central Government. Thereby we have paralyzed its power and responsibility in northern Mexico, and yet no tolerable governmental power or responsibility has been substituted for it there with which we ourselves and other civilized nations can deal. At the same time neither we ourselves step in nor permit other nations to step in to vindicate foreign rights. Mr. Bryan simply started wrong and has been going wrong.

From the Louisville *Courier-Journal:*

War is what we shall get, sooner or later, for the folly of clinging to the Monroe Doctrine and assuming police supervision of Latin America in behalf of Christendom. President Wilson may succeed in avoiding it this time, but war we shall have sooner or later, in Mexico or elsewhere in Latin America, and the harvest of blood and tears will have been earned by the sowing of folly.

Surely Don Quixote, astride of Rozinante, with the barber's bowl on his head for a helmet, was never a more ridiculous figure than that country cuts at the present juncture.

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From the Hartford *Courant:*

By the simple recognition of the Huerta Government, which under all the rules and practices of intelligent diplomacy is fully entitled to recognition, there would be no need of sending any American army into Mexico. President Wilson is not so stupid as not to see this. President Wilson is a man of acute and most alert intelligence, and he is not above learning by his own blunders, as is shown by his promptness in giving official recognition to the revolutionary governments just set up in Peru and Hayti.

But he is morally obstinate—obstinate by nature and obstinate by years of autocratic rule in the schoolroom; and in addition to this he fears that his prestige, which has been carefully built up all through the country by his unlimited newspaper admirers, would be impaired by the frank confession that his much-vaunted Mexican policy has been one continuous blunder from the outset.

The election of a New Congress in November of this year, a piece of work in which he has already taken the directing hand, also makes it especially inopportune, from his party point of view, to admit a change of mind in regard to our relations with Mexico; yet it is only by such a change of mind and of policy, to which his own nature, habits, and special political interests of the moment are strongly opposed, that he can really and truly do the thing that is required in order to keep our troops out of Mexico.

This is why we say that President Wilson needs to begin all over again in the treatment of Mexico. It has taken him a long time to find out the kind of men with whom he has been sympathizing and upon whom he has been depending for the political regeneration of that country. He violated all the rules and usages governing such matters by undertaking to say for Mexico what kind of a government Mexico should have, and his undertaking has broken down. He can send American troops into Mexico, or he can give due recognition to the existing Huerta government. There are the alternatives. But President Wilson cannot truly be said to be "trying" to avert armed intervention in Mexico unless he first tries the old and reputable and peaceful method of recognizing and giving the moral support of the United States to the *de facto* Government of that country.

From the Chicago *Inter-Ocean:*

There is no disguising the fact that Mr. Wilson's "watchful waiting" policy has proved a dismal failure. Good intentions remain the only excuse for this refusal to accept accomplished facts when Madero fell.

Mr. Moore wanted Huerta accepted as *de facto* ruler of Mexico not because he approved Huerta, but as the strongest man in sight, and on the ground that the manner in which Mexicans see fit to change their rulers is none of our business. It is, perhaps, still possible to take that course. It is plain that Carranza and Villa will not do. Huerta may be a poor stick from idealistic viewpoints, but what more capable Mexican is in sight?

Mr. Wilson has demanded and has been given a free hand. His dealings with Mexico have brought the country to the point where it may be compelled, against its will, to armed intervention, that it may preserve its self-respect. Has President Wilson the moral courage to change his policy

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and bring the nation out of the difficult and dangerous position into which he has led it?

From the Detroit *Free Press:*

The nation stands on the brink of an imbroglio with the whole or a part of Mexico. It is not the doing of the American people. It is the result of a wholly unfeasible policy, persisted in against all logic—a policy which breaks every canon of tried diplomacy and common sense. The nation has not desired war; it does not want it now. If forced into a conflict it will make the fight because it finds itself in a position where no other course is compatible with honor and self-respect and duty to citizens abroad.

Columns of like editorial comment are before our eyes—all of the same tenor. The excerpts presented have been selected from representative journals of various sections, of whose intelligence, patriotism, and sincerity there can be no question. Even the New York *World,* whose faithfulness you surely must appreciate, finds room upon its editorial page for the following communication:

Notwithstanding our strong official opposition to Huerta, that has prevented him from obtaining funds or augmenting his army, and your repeated assertions that he was on his last legs, he seems to have proved that he is the strongest leader in Mexico to-day, and that, had he been granted recognition in April last, his country would have been peaceful long since, at least would have been free from the armed bands of such assassins and robbers as Villa, Castillo, Zapata, and others. I do not mention Carranza, as he is apparently only a figurehead, with sufficient sense to keep him from coming in contact with Villa.

It seems to me plain that those who have advocated recognition for Huerta are not clamorous for war, as you intimate, but firmly believe that such a step would have prevented any cause for intervention by having brought peace to Mexico and saved thousands of lives and millions of dollars' worth of property. Although our official treatment of Huerta has been such as to perfectly warrant him in ignoring completely any demands or requests made to him, he has invariably given courteous attention to all representatives from our unofficial chargé d'affaires and acted promptly on all our complaints.

Kindly note this: If we do not recognize Huerta and assist him in bringing his country out of anarchy (though very late for such a step and now attended with much greater difficulties than at an earlier date), intervention must surely take place, for even should we willingly continue our "watchful waiting" and look on quietly at a terrible state of affairs, other nations will not agree to hold aloof for a much longer period.

And the New York *Times,* speaking from its sense of fairness, says of Huerta that he "has treated foreign residents, including Americans, well; has submitted to peculiar and unprecedented relations with the United States with remarkable self-control; has treated the American President's personal representative, Mr. Lind, with courtesy, while he

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has listened with good grace to suggestions made by Mr. O'Shaughnessy, our chargé at the capital, and frequently acted upon them." And adds frankly:

> There is no doubt that he has gained a large measure of respect from many persons in this country who profess to believe that he is the only man in sight who can be looked to to restore order.

So, too, the New York *Evening Post* is driven grudgingly to the conclusion that your Mexican policy, "as a whole, and up to the present, cannot be called a success in the sense that it has achieved the result desired"; and the conservative Philadelphia *Public Ledger* says with striking emphasis:

> We ought to reverse our action. We ought to redeem our obligation without hesitation or quibble, an obligation which we have assumed, and rightly assumed, but in the fulfilment of which we have been strangely lacking. It makes no difference whether the Administration was right or wrong when its Mexican policy was adopted. The large thing to do is the only thing we can afford to do, and largeness in the circumstances consists in the capacity to adopt a programme *de novo*, to sweep out of the way regard for petty consistency, to acknowledge whatever errors there may have been in former policy, to break the shackles of accepted precedent and move untrammeled toward a complete solution of the problem.
>
> That is the largeness which the nation expects of the President. Public opinion senses the imminent peril of intervention and the necessity for action. It does not presume to dictate what policy the Administration should adopt, although the recommendatory attitude of the Press is almost unanimously in favor of a Pan-American concert, but it does insist that the pilot put his hands to the wheel and give positive direction to a forward movement, that the fine skill which has guided the process of the repeal of the canal-tolls exemption be exercised now in extricating the nation from the lamentable shallowness of purpose into which it has been permitted to drift.

And what says the man in the street? We, better, perhaps, than those who convey only pleasing information, could tell you; but let him speak for himself through the newspapers. We find, as a result of the most cursory examination:

In letters to the New York *Herald:*

> When an individual . . . realizes he has made a mistake he will, if he is big, acknowledge and correct it. Should not a nation be as big as an individual?
>
> President Wilson has withheld recognition from the only government that exists in Mexico, believing the forces in opposition would be able to accomplish Huerta's early overthrow, and that in these forces lay Mexico's best hope for peace.
>
> Events have proved the policy of the United States to be wrong. Huerta, whose government is just as constitutional as that of Peru,

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which the President hastened to recognize, has lasted for more than a year. The "Constitutionalist" cause has produced nothing better than a Villa.

Hasn't the time come for the President to realize and rectify his mistake, not in the interest of Huerta, but as a right due to the American people? . . .

Recognition of the Huerta government seems to me the only possible way for us to escape the armed intervention that neither the President nor anybody else in this country wants.

. . . . . .

There is very much to commend in President Wilson's address to Congress yesterday. Who can question the wisdom of this:

"The large thing to do is the only thing we can afford to do, a voluntary withdrawal from a position everywhere questioned."

President Wilson may well ponder these words from his own mouth. They apply directly and forcefully to his own Mexican policy.

If he is able to do the "large thing" and voluntarily withdraw from his mistaken attitude, which is responsible for all our troubles, this nation may yet see a "way out" from its unfortunate Mexican entanglements. I fear there is no such "way out" unless the President does follow the excellent advice he yesterday gave to Congress.

In a letter to the New York *Tribune:*

There seem to be but two alternatives—immediate intervention or immediate recognition of Huerta, far preferably the latter. The world has always recognized that moral courage is far greater than physical courage. Is President Wilson great enough and strong enough to say to Huerta: "I have opposed you from the beginning because I thought I was right and that you were wrong. I now realize that I have been wrong, and I am going to give you a chance to prove that you are right and can bring peace to Mexico. I am therefore willing to recognize your government with the understanding that you will bring peace to your country within the next three months. If you fail to accomplish this I shall recommend immediate intervention to Congress. The present conditions cannot continue; they are intolerable." If Woodrow Wilson is a big enough man to do this our people and the nations of the world will acclaim him the greatest man in the world. I can see no alternative.

In a letter to the Philadelphia *Public Ledger:*

The writer during his vacation in the past summer met some intelligent American people who had large property interests in Mexico, and for his own enlightenment inquired as to their opinion relative to conditions in that country.

They advised him that they thought the only salvation of Mexico could come from within, and that Huerta, backed up by his Government, was the only person qualified to thoroughly police the place.

That the only bar to such action on the part of Huerta was the opposition stand taken by the Government of the United States.

That this Government stood alone among the nations in its Mexican policy.

That recognition by this country of the Federal Government of Mexico would enable the latter to borrow, probably in London, possibly in the

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United States, all the funds required to maintain order, and to call a halt to the acts of outrageous brutality now being committed, and to the great loss of property belonging to American and British subjects residing in Mexico.

In letters to the New York *Sun:*

If our President, who has proved himself in some ways in this first year of his incumbency a very great President, could persuade himself that the whole world is not in the wrong—that he is like the Irishman who informed his drill sergeant who told him that he was out of step, not at all, that he was in step, and that all the rest of the company were out of step; if he could be made to believe that he and his friends may possibly be wrong, since the whole world of Europe and America thinks concerning the advisability of Huerta's recognition exactly the reverse of his thinking; if he would come out frankly and answer that upon misinformation furnished him at the outset concerning General Huerta's resources and personality he declined to recognize him, but that now he perceives his mistake and will recognize him—then the President at one bound would become the most popular man in the United States, war would be averted, and the whole problem solved.

It is the belief of those who have studied the situation and are on the ground that Huerta, if as well backed by this country as the so-called Constitutionalists have been, would make good in short order and restore peace and prosperity to distracted Mexico.

. . . . . .

It has been said that most of Mexico is against Huerta. This is erroneous. If this were true, when the rebels attack a town they should be able to take it without much trouble, since the inhabitants of same would attack the Federals from the rear. Whenever the rebels, or bandits, assault a town, the inhabitants join in the defence of the town. This is the most eloquent proof that Mexico, as a country, is in favor of President Huerta.

From the foregoing it can be seen that Huerta, far from being a traitor, is a great patriot, that he is the *de facto* and the *de jure* President of Mexico, and that the Mexican people at large support him heartily. The foreign powers, with the exception of this country and maybe one or two of minor importance, recognizing these incontrovertible facts, have recognized Huerta as the *de facto* and the *de jure* provisional President of Mexico. The United States ought to follow suit and vindicate herself by acknowledging her misconception of the facts. This acknowledgment would have no savor of humiliation, for "to err is human" and to make amends is manly and holy. This non-recognition policy on the part of the Wilson Administration on the reported ground that it would be immoral to grant recognition is tantamount to saying that all the other Governments that have recognized Huerta are immoral, which would be a reflection on all the civilized world.

In view of the above, it is to be hoped that the American Government will come to the conclusion which I stated above, namely, that it has misconceived the facts, and that it must vindicate itself by recognizing the Huerta Administration forthwith.

The extraordinary characteristic of this galaxy of edi-

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torial and individual pronouncements is its unanimity. There may have appeared somewhere a word of approval of "watchful waiting" since the embargo was lifted, but if so, despite our painstaking reading of many American newspapers, we have not seen it—not one word. Taking into further consideration the rapidly increasing disposition of Senators and Representatives, who are most sensitive to the views of their constituents upon the eve of an election, what are we to infer? In your truly eloquent message to the Congress delivered in person on August 27th, you attributed the Mexican Government's rejection of your proposals to your belief that "the authorities had been grossly misinformed and misled upon two points." First, they did not "realize the spirit" of "friendship" and "determination" of the American people; and, secondly, "they did not believe that the present Administration spoke, through Mr. Lind, for the people of the United States." Consequently, you added in perfectly good faith and we believe with full warrant as of the moment, "so long as the misunderstanding continues we can only await the time of their awakening to a realization of the actual facts." You concluded, if our memory is not at fault, with the comforting assurance that "the steady pressure of moral force will before many days (after August 27th, 1913) break the barriers of pride and prejudice down and we shall triumph as Mexico's friends sooner than we could triumph as her enemies," etc., etc.

But that is beside the point. The question is, Does the present Administration *now* speak, through Mr. Lind or anybody else, for the people of the United States? In view of the indications of the certain trend, if not indeed the definite formulation of Public Opinion, is there not room for doubt—and occasion for very grave reflection?

You spoke, Mr. President, in your latest Message, of the difficulties which you are now experiencing in dealing with foreign Governments, especially with respect to "matters of even greater delicacy and nearer consequence" than the canal-tolls dispute, and you pleaded with the Congress to empower you to adopt conciliatory measures. It is clear, therefore, that you attach particular importance to Foreign Public Opinion at this crucial time. What, then, is the consensus of that judgment upon your Mexican policy?

The most consistent friends of America among the public

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journals of England are the London *Times* and the *Spectator*. Both have deplored from the beginning your refusal to recognize the *de facto* Government. While hoping for the best, the *Times* still cannot escape the conclusion that you have "assumed responsibilities that may well lead to armed intervention"; and the *Spectator* says:

We can foresee nothing but bitter and cruel mortification as the result of Mr. Wilson's policy of "watchful waiting," while that policy means watching and waiting on such fiendish villainies. So far the effects of Mr. Wilson's policy have been the very nemesis of pacifism. General Huerta, as the *de facto* ruler of Mexico, at least had a better chance than any one else of producing order. But that was not enough for Mr. Wilson. With admirable yet fatal motives, he looked for personal perfection in a land where it does not exist, at all events in public life. By gradual stages he has been driven into a corner, and has at last come to the point of recognizing anarchy in preference to recognizing General Huerta. By a very different route from that of a professed man of iron and blood, he has arrived for all practical purposes at a purely cynical policy. He has removed the prohibition on the traffic in arms across the United States frontier, and now looks on "watchfully" while American citizens and British subjects are killed and trains are sent full tilt into burning tunnels. This terrible state of affairs is the result of the primary error of supposing that you can dictate to a proud and independent country and at the same time really respect its independence. "Things are what they are, and the consequences will be what they will be. Why, then, should we desire to be deceived?" The alternatives are to recognize whatever President has at the moment climbed to power, and to act as though Mexico were no longer an independent country. One or the other it must be. The latter policy has always meant a great campaign and a military occupation, although Mr. Wilson has steadily refused to see what he did not wish to believe.

The conservative *Morning Post* pronounces your position "absolutely unintelligible" and possessing "all the appearance of encouragement to anarchy, civil war, and murder of foreign residents in Mexico." We quote briefly from the leading journals of other countries:

From the *Economiste Française* of Paris:

The United States have as President to-day a doctrinaire, very eager for the people's good. Mr. Woodrow Wilson is a university professor and the author of some interesting books. He consequently has the advantages and disadvantages pertaining to a life long devoted to learning and teaching. His mentality is elevated, but rigidly unadaptive; his honesty is above suspicion. He is, however, deficient in experience. He considers himself called upon to regenerate the public morals not only of the United States, but also of other countries. He says he will not permit Mexico to initiate such and such a governmental solution of the deadlock or put forward such and such a candidate for the presidency. But neither Mexico nor the nations of Europe can possibly submit to these

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North American injunctions. Mexico is an independent state, and it is desirable she should remain so.

From the *Novoye Vremya* of St. Petersburg:

The fact that all European, South American, and Asiatic countries have long recognized the Government of Huerta can be considered as the best proof that Huerta has ably conducted the governmental affairs of Mexico. Only the United States has assumed a peculiar position. While refusing to recognize Huerta, it has until now confined itself to the energetic support of the rebels concentrated in the north with money, men, and ammunition. The Message of President Wilson reveals the game of the United States. It not only demands that an armistice should be concluded with the revolutionists, but even insists categorically that Huerta should not be a candidate for President in the coming election. It is not in vain that the Western European press permitted themselves to express the supposition that the United States openly take the side of Mexican anarchy.

From the *Berliner Tageblatt:*

Every Mexican knows very well that the policy of the United States in regard to Mexican affairs aims at establishing a protectorate, more or less disguised, over their Republic, because it separates the United States from the partially subjugated republics situated north of Panama. Huerta is not a particularly attractive individual, but it is nevertheless true that this "immoral" man against whom the ex-professor of Princeton contemplates the mobilization of an army is exactly the man that Mexico at this juncture needs. He would have established the order which has so long been disturbed if he had been permitted to do so. The dictator is fully aware of the peril to which he and his country are exposed from the United States. He has merely persistently faced this peril without paying any attention to the clamor that rises on the other side of the Rio Grande. That he has so far succeeded in his plans to a certain point is proved by the check administered to the tragi-comic mission of Lind. . . . At present the submission of Huerta is a thing inconceivable. It appears more probable that he will let Uncle Sam bite the sour fruit of failure.

From the *Boersen Courier* of Berlin:

The sly and undecided policy of the United States has made American diplomacy the laughing-stock of the world. The Government at Washington is aiming in an underhand way at stripping Mexico of her political independence, but above all at establishing in that country the economic supremacy of the United States. If that Government had desired nothing more than the re-establishment of peace it would have recognized Huerta long ago.

From the *Imparcial* of Madrid:

We have every reason for deeply distrusting the United States. We have already frequently pointed out how the Northern Republic is attempting to take Mexico in her net.

Is it not now quite clear, Mr. President, that your attitude toward Mexico is "a position questioned and misunderstood" in Europe?

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In your speech at Mobile you emphasized our friendliness for the South American republics. "We must prove ourselves," you declared, "their friends and champions, upon terms of equality and honor. We must show ourselves their friends by comprehending their interest, whether it squares with our interest or not." What has been the effect upon these republics of your Mexican policy? What signified the "Vivas Huerta" with which Mr. Roosevelt was greeted in Chile? What says the Press of South America? We quote:

From the powerful *Prensa* of Buenos Ayres:

All that Wilson has said in his address to the Congress at Washington has merely served to fortify the position taken by Huerta. The policy of Mr. Wilson has only one tendency, and that is to unite the Latin-American states, in spite of Uncle Sam, and make such a hostile federation a reality instead of the political dream which it has hitherto been.

From the *Voz de Oriente* of Lima:

Far from mending, the situation in Mexico is growing more complicated and dangerous. This condition of things results in a large measure from the attitude of the Government at Washington in refusing to recognize Huerta, while Wilson sympathizes with the rebels and even gives them his support. This is the cause of the movement among the students in Mexico City. These youngsters have made a grand manifestation against the Yankees before the palace of the Governor when they carried flags bearing the inscription "Death to the Yankees!" The irritation exhibited by the Mexicans is amply justified.

From the *Prensa* of Lima:

The President's declaration that he could not recognize Huerta's Government because it was founded upon treason is extremely interesting. But nothing can justify the intervention of one state in the affairs of another. At least there ought to be some explanation of the motive which urges North America to favor, by opposing Huerta, the interests of Carranza's insurgents who have raised the ensign of an independent Mexico.

From the *Revista de Yucatan* of Merida:

President Wilson and his Secretary of State appear each to be one of three things. Either they are the romanticists of diplomacy, or the ignoramuses of diplomacy, or the hypocrites of diplomacy. In whichever of these characters we regard them, they are hurtful to the country they govern and to the nations with which they deal. For nothing can be more pernicious in political life than romanticism which engenders your dreamers, your fanatics, extravagant theorists, and your Utopians who do not see the reality of things, who do not perceive the world in which they live and attempt to go beyond the law of nature. The ignoramus is one destitute of science or letters. . . . The hypocrite is just what the word imports—he is a man who blazons abroad as his own the virtues he does not possess.

From *El Imparcial* (anti-Huerta) of Mexico:

It is difficult to believe that the Yankee Government is authorizing the sale of arms to the bandits of Villa, who pillage, burn, and murder

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throughout the country. How can the rulers of a cultivated people, under guidance of a wilful and obstinate leader, suffer themselves to be guilty of complicity with such a band of plunderers? It once appeared impossible that President Wilson should be a man destitute alike of conscience and a sense of shame. If the American people approve of this astounding measure taken by their President, they will deserve the contempt of all honorable nations.

From the *Pais* (pro-Huerta) of Mexico:

The only thing which President Wilson will have done is to bring into greater prominence the personality of Huerta, who, thanks to the intrigues of the North Americans, represents to-day upon our new continent the soul of the Latin race.

Can there be any doubt, Mr. President, that your course has served only to intensify the distrust and dislike of the very peoples whose good-will you courted and whose "friend and champion" you sincerely wish to become? Is not here again, where least of all we desire it, questioning and misunderstanding?

It is not necessary to point the direction of the sympathies of Japan, with whom we would maintain amicable relations; it is not necessary to record the unanimous judgment of all foreign residents of Mexico nor to recount the prayers of our own countrymen who feel that they have been abandoned; these are only too unhappily familiar.

What to do? Why, Mr. President, there is but one thing to do. There never has been but one thing to do. That is to put under your feet the solid precedent that was established by this Nation at the beginning of its career and that has been heeded by all other Powers in this particular instance: Extend to the *de facto* government of Mexico official recognition. We pass no criticism upon your refusal to take this logical and sensible action originally. You erred, of course, as all the world now concludes, and as you yourself confessed when you acknowledged the validity of the "usurping" Governments of Peru and Hayti; but it was an excusable, possibly even a justifiable, error because it sprang from the best of intentions. What we do ask is that you do not persist in a course which leads straightway to the undoing of all your good works, through the certain defeat of your party and the execration that just as surely will be visited upon yourself if, as a consequence of sheer obduracy, this country shall be dragged into a hateful war. It may or may not be a correct assumption that Huerta, unhampered, could have pacified his country, but there is

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and can be absolutely no question that you deprived him of the means of effective striving.

Grant that Huerta is a bad man. Is he not, nevertheless, the best? Has he not proved himself, in contrast with Villa, Carranza, and Zapata? Surely in recent years no ruler's ability has been put so severely to test. Consider what he has done single-handed and alone! Confronted at the outset by a hostile Congress such as he well knew had achieved the downfall of Madero, surrounded by a Cabinet of intriguers, refused recognition by the United States, branded rightfully or wrongfully, but without adduced evidence, as an accessory to assassination, deprived of the opportunity to borrow moneys through the desire of foreign Governments to curry favor with the nation which is now more commonly than before referred to throughout Latin America as "the big bully," cajoled, threatened, cut off from aid wherever possible, while simultaneously the hordes of opposing bandits and desperadoes were being supplied, furtively at first and then openly, with arms and ammunition, and now—at the end of thirteen months—he is conceded to be more strongly intrenched than ever! It is an amazing personal record, Mr. President, worthy surely of admiration, and remarkable especially for the consistent dignity, courtesy, and consideration exhibited by the old Indian himself in his dealings with an Administration which has been —shall we frankly admit?—not invariably tactful and perhaps upon occasion slightly dictatorial.

It is *not* too late. It is *never* too late to do the right thing. Moreover, the change in conditions affords you full warrant for reversing your position. While you had faith in the sincerity and high purpose of the rebel leaders, there appeared at least a semblance of reason for taking their part, but now that they have dropped the mask and stand revealed in their true light as murdering marauders, their last claim upon your consideration has disappeared. You gave them their chance, at great risk to your own reputation, when you opened the doors for the delivery of arms, and they have shown their appreciation by ignoring your wishes, flouting your authority, and making you appear before the world as a virtual ally of a dastardly bandit. While Huerta has been earning your respect, Villa has been abusing your confidence. Clearly, the withdrawal of aid from the rebels now would be regarded everywhere not only as

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fully justified, but as a fitting response to the demands of humanity and civilization.

But what, you may ask, is to be gained by recognizing Huerta at this late day? And we answer, everything! He may not be able under any circumstances to pacify Mexico, but all there whose lives and properties are at stake agree that he is, rightfully or wrongfully, Mexico's only hope. He is ours, too, and yours, because he has come to be the only force capable of maintaining order and so possibly of averting the dreaded intervention which continuance of the existing chaos is certain in time to produce. Practicability, no less than theory and tradition, calls for upholding of the *de facto* government.

There are other reasons, Mr. President, more personal to yourself. You have no base now from which to act; no avenue through which to communicate; no way of meeting the just demands of foreign Powers except, as in the case of England, by proffering special favors. And you are under suspicion. The mere fact that your policy is "unintelligible" has given rise to a growing conviction, especially in South America, as evidenced above, that it is insincere and is deliberately designed to engender war and conquest. You no longer have at your back the mighty force of Public Opinion, as we have shown. Abroad, as you must realize, the common attitude toward your watchful waiting is quite frankly contemptuous; at home, it is one of grave doubt and grave anxiety. To speak plainly, Mr. President, the feeling is growing stronger daily that your persistence in a course, which in common with everybody else you must know to be wrong, is attributable to no kind of reasoning whatsoever, but to your own stubborn pride. For your own sake, then, if for no other cause, it is of the utmost importance that, if there must be war, it shall come as an inevitable consequence, as demonstrably unpreventable by any conceivable means and in strict conformity with the customs and precedents fixed by international usage.

Is it not clear, Mr. President, that this condition can never be realized until the only government, however discreditable, that does exist and the only really strong man, however disreputable, who has appeared, shall have been accorded the full opportunity which so many believe they could utilize even now with ultimate effectiveness? It is the only way, sir, the only way out, the only way to save

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Mexico, to save your party, and to save yourself. It is, too, "the large thing to do," the "only thing" you "can afford to do" to escape from a position "everywhere questioned and misunderstood."

We implore you, Mr. President, to take to heart your own splendid words—"*We ought to reverse our action without raising the question whether we were right or wrong*"—and then *do it* "*without quibble or hesitation*" and win for your country just honor and for yourself the fine renown which the world invariably accords a noble act nobly done.

A PAGE OF DIPLOMACY

"What do you know about this business?" the King said to Alice.

"Nothing," said Alice.

"Nothing *whatever?*" persisted the King.

"Nothing whatever."

"That's very important," the King said, turning to the jury. They were just beginning to write this down on their slates, when the White Rabbit interrupted: "*Un*important, your Majesty means, of course," he said in a very respectful tone, but frowning and making faces at him as he spoke.

"*Un*important, of course, I meant," the King hastily said, and went on to himself in an undertone, "Important—unimportant—unimportant—important—" as if he were trying which word sounded best.

Some of the jury wrote it down "important," and some "unimportant." Alice could see this, as she was near enough to look over their slates; "but it doesn't matter a bit," she thought to herself.

So mused Ambassador (W. H.) Page on the foggy morning after his famous speech: "A joke—not a joke—not a joke—a joke"; and some of the ninety millions of his countrymen who were serving on the jury wrote it down "a joke" and some "no joke." For ourselves, we think as Alice thought: "It doesn't matter a bit." To the best of our information, Mr. Page holds no commission from the United States of America to define the Monroe Doctrine either as a principle or as a pleasantry.

All of the accounts agree that at first the Ambassador brushed aside reports of dissatisfaction at home as of no consequence because his talk had been the merest banter. "It was meant, Mr. Page says, to be humorous, but," adds the *Sun's* despatch, "neither his hearers nor the readers of the speech seemed to see the joke." Accordingly, on the following day, the Ambassador politely accepted the English view, and authorized the correspondents of the *Times*

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and the *Tribune* to say that he "had a deep purpose in mind and a most serious one, namely, to clear up the misapprehensions which have been wide-spread in financial circles here ever since President Wilson's speech (at Mobile) last autumn." Even granting the questionable necessity of interpreting the President, the unwisdom of attempting to elucidate his studied utterance extemporaneously over English walnuts and French wines seems apparent; and yet, since that was the Ambassador's deep purpose according to the latest bulletin, it becomes a matter of passing interest to note what he really said. The *American* claims to have obtained a verbatim report from the official stenographer of the London Chamber of Commerce, reading, "after a few purely introductory remarks," as follows:

I heartily enter into your applause of what several gentleman said, notably the Prime Minister, when he spoke of your concern for the men that work with you and work under you and for your ready applause for plans to train those whose misfortunes make them a burden upon the State.

That strikes a sympathetic note also in our great commercial interests and aims in the United States.

I will not say that we have constructed the Panama Canal for you [laughter], for I am speaking with great frankness and not with what is sometimes called diplomatic indirection [laughter], but I will say most truly that it adds greatly to the pleasure of building that great work that it is you who will most profit by it. [Applause.]

I can say a similar thing about the recent lowering of our tariff. We did not lower it in order to please you [laughter]; it was for purposes that we considered economically sound for ourselves. [Cheers.] Nevertheless, it added to the pleasure of doing that to reflect that thereby we should receive more trade from you. [Cheers.]

Concerning the recent message of the President, I can say somewhat more —I take it upon myself, on my own responsibility, to say more. He told you that not merely to please you, but to express the true sentiment and the self-respect of the American nation, of every true American. [Cheers.]

His was the voice of the people. Nevertheless, it adds to the pleasure of hearing that voice to know that it does please you.

May I put in another parenthesis, also on my own account, and correct an impression that a part of your press seems to have about the attitude of the United States Government concerning the investment of your colossal earnings in States of Central America that have volcanic tendencies? [Laughter.]

I sometimes read that the United States is entering upon a policy to discourage foreign investments. That is untrue. I think that some events are happening there which discourage them somewhat, but I hope that they will not be charged to the United States.

There is a policy forming in the minds of our Government and of our people, which is not new, that would discourage such investments or such concessions as would carry with them the control of the government of

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any of those States, and only that [Hear, hear], only that, if you please, for so far as the United States is concerned you know how heartily we have welcomed your investments there, and still welcome them, and always will.

You may be assured that it is not the business of the United States to put any let or hindrance upon any investments of yours anywhere in the world, and it will most heartily welcome your investments in any part of America, provided only you do not make them so that you may take the country with them. [Laughter.]

The Monroe Doctrine, you know, meant only this: That the United States would prefer that no European Government should gain more land in the New World. [Applause.]

For reasons set forth above, as suggested by Alice, the views expressed by Mr. Page hardly call for serious consideration. It may be said, however, that no just exception can be taken to his remark about our recent tariff legislation. Undoubtedly our purpose was economic and selfish and necessarily involved an increase of trading with our best customer. It is, too, an obvious fact that England, having by far the largest mercantile marine, will profit most at first from the building of the Panama Canal, but whether the satisfaction of the American people is so greatly enhanced by the reflection is perhaps a question. We suspect that on the whole they would be better pleased if the greatest benefit should accrue to American shipping. That, we think, in view of our enormous expenditure, is but natural and proper.

If Mr. Page really said that the Monroe Doctrine means "only this: that the United States *would prefer* that no European Government should gain more land in the new world," we can only conclude that he chose words which better exemplified his courtesy and consideration than the actual fact. Clearly, to have declared that the United States *would not permit* European encroachment upon American territory would have seemed unnecessarily brusque and uncalled for. The real doubt is as to the necessity or advisability of trying to define the Monroe Doctrine at all.

With Mr. Page's elucidation of Mr. Wilson's utterance at Mobile regarding foreign investments in South America we have no concern. That is a matter which lies between the President and his Ambassador. The really important point is that Mr. Page was speaking "on my own responsibility," "on my own account," thus depriving his interpretation of both authoritativeness and substantial value. We

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have yet to be convinced that President Wilson is incapable of clarifying any dictum of his own which may seem to require explication.

It may not be amiss, finally, to remind Mr. Page, in all friendliness, that it does not lie within his province or power to make a public statement of American policy on his own responsibility. To realize this, he has but to reflect for an instant upon the likelihood of his being seated at a great banquet-table next to the Prime Minister of England at all if he were a private citizen. It seems strange and is a pity that it should have required this somewhat distressing experience to impress upon his understanding the fact which we trust he now fully comprehends, that every word he utters in public he speaks as Ambassador of the United States, and is so accepted quite as definitely by Americans as by the English.

We would not attach undue importance to this particular incident; indeed, barring the placing of a potent weapon in the hands of those who are striving to defeat the President in his splendid endeavor to maintain the Nation's honor, we see little real harm done; and yet who, at a time so critical as this both at home and abroad, can foresee the consequences of such indiscretions?

Referring to Sieur de Langley's account of the Ambassador who in a speech "had mixed several tart and injurious expressions to the dishonor of our nation," Montaigne remarked:

> At which I could not but wonder that it should be in the power of an Ambassador to dispense with anything which he ought to signify to his master especially of so great importance as this, coming from the mouth of such a person, and spoken in so great an assembly. . . . It should seem, methinks, rather to belong to him who is to give the law, than to him who is only to receive it; to him who is in supreme command, and best can judge of his own interests, and not to him who ought to look upon himself as inferior, not only in authority, but in *prudence and good counsel.*

It would be well if all of our not wholly sophisticated Diplomats of Democracy would take to heart this wise admonition of the great philosopher.

TENNIEL AND "PUNCH"

The news of Sir John Tenniel's death a few weeks ago sent the memory flying back to an evening in June, 1901.

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The occasion was Tenniel's retirement from the staff of *Punch* after fifty years of incomparable service. The American Ambassador, the Prime Minister of Great Britain, the President of the Royal Academy, the leading lawyers, politicians, artists, journalists, actors, and authors of the country, to the number of well over two hundred, came together to give him a farewell dinner. It is doubtful whether such a company ever before assembled to do honor to a political cartoonist or ever will again. It was, of course, much more for his work on *Punch* than even for his masterly illustrations to *Alice in Wonderland* and *Alice Through the Looking-Glass* that Tenniel was acclaimed. For thirty-six years hardly an issue of *Punch* had appeared in which Tenniel's familiar signature was not to be found at the left-hand corner of the cartoon of the week. That was an immense record of hard work, if of nothing else. In Sir John Tenniel's case it was also a record of good work.

There are in New York alone several cartoonists who constantly reach a higher point in humor, power, and draftsmanship than Tenniel ever attained. But looking over the seventy-two half-yearly volumes that contain Tenniel's work, one finds that his standard, if he rarely rose above it and sometimes fell almost calamitously below it, was of a high character and wonderfully maintained. He had his obvious, his unmistakable faults; his composition was not infrequently poor; his style, somewhat statuesque at the best, was on occasion nothing less than wooden; and there were men, like Mr. Balfour and Mr. Joseph Chamberlain, whose features he never could catch. His humor, like his pathos and his meaning, was large and unshaded. His whole case was got up in good plain black and white. So much was evident on the surface, and on the casual, and especially the American, reader of *Punch,* might have acted merely as a deterrent. But to the student—and every one who wants to understand England should be a student of *Punch*—Tenniel's work took on a charm that even its manifest defects could not destroy. It was, for one thing, always pointed and apt. Sir John always contrived to produce something that hit the nail precisely on the head and gave expression to what the average Englishman was thinking at the moment. Also it was work of unfailing dignity. Tenniel, as Mr. Balfour said at that farewell banquet, was "a great artist and a great gentleman." He hit hard, but never malignantly,

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and he never overstepped the line that separates caricature from travesty. Rancor was just as absent from his cartoons as indecisiveness. What he had to say he said boldly and clearly, but with a scrupulous regard for the decencies of combat. He took hold of what sixty-odd years ago was a coarse and scurrilous department both of art and politics, and by his personality and intelligence even more than by his technical skill, he cleansed it, elevated it, revolutionized it, until he made the political cartoon in *Punch* a regular and potent factor in the formation of British opinion.

We have had, and we still have, in America our great cartoonists, but we have not yet succeeded in providing the sort of canvas for them that Tenniel found to his hand in *Punch*. We have never, that is, produced a journal that harmonizes so entirely with the national taste and temperament of America as *Punch* harmonizes with England. From the middle classes up to the summit of the social mountain every one in England reads *Punch*.. Its perusal on Wednesday is as much a part of the discipline of English life as church-going. It has a place in every well-organized system of domestic education in the country. From its pages juvenile patriots glean the history of latter-day England, much as Marlborough confessed that he owed what little knowledge of the past he had to Shakespeare. And the *Punch* habit lasts. An Englishman going on a railway journey instinctively buys *Punch* at the bookstall for his traveling companion. The greatest club nuisance in the United Kingdom in the eyes of his fellow-countrymen is the man who goes to sleep clutching the latest issue of *Punch*. A septuagenarian wishing to refresh some early memories turns at once to *Punch*. You will hear *Punch* quoted as an authority on manners and fashions. There may even be corners of England where it serves in some sort the purpose of an illustrated guide to London social life. It is a national institution in far more senses than is the *Times* or any other British journal. And it is so very largely because it has never gone in for extremes. It has always preserved and enforced that common-sense view of public events which partisanship distorts. It is what Lord Rosebery would be if he were a weekly illustrated paper.

Punch has opinions and even a policy, but while it never hides them, it never antagonizes by pressing them too heatedly. Ruskin long ago declared that of all the papers in

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England, *Punch* best represented the average opinion of the country. It does so still, and it is just because it does so that it possesses a real historical value. Turn over the back numbers of *Punch* and look at the weekly cartoon and you will have a picture of the sane second thoughts of the nation on the leading event of the day. It is a calm, good-humored, pointed, pictorial summary of British, and occasionally of world, history. Then, again, besides its sense of balance, *Punch* is absolutely wholesome; and in a paper of its kind that is a quality which atones for much. Pick up a single issue of a French or a German or an American humorous journal and a single issue of *Punch,* and you will probably prefer the former—it will at least make you laugh. But compare half a dozen issues and you will find inclination veering toward *Punch.* And when it comes to whole volumes, inclination, in ninety-seven cases out of a hundred, will be definitely fixed on the side of the English periodical, after all.

Punch and *Life* are the two professedly humorous journals in the world, the bound volumes of which can be looked into not only without weariness and nausea, but with positive pleasure. To say that is to say a good deal. The great fault of the American comic papers is that they are not serious enough. They are always making jokes. You laugh yourself into a fit of profound depression while reading them. They are too much in the air, too trivial, too grotesque, too local, and they rarely know when to leave off. *Punch* evades these mistakes because it is at least as much a critical as a humorous journal, and its criticism is the easy, arm-chair, equable criticism of a man of the world on human nature and the politics, fashions, fads, and incidents of the day. The American comic paper is like the professional funny man at a party. You listen and laugh for a while and then you want to murder him. The man you are content to sit at the feet of for hours at a stretch is that quiet, shrewd-looking, middle-aged, but vital gentleman with the grayish hair, who has a little scholarship, a little wit, plenty of common-sense and experience, who never cuts capers or tries to force the pace, but keeps you placidly chuckling as he holds forth—in other words, *Punch.*

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COMMENT

The Houston *Post* quite properly remarks:

> In his reference to the President's appointment of a Minister to Colombia, after specifying the qualifications of retiring Minister DuBois, Colonel Harvey observes: "His successor is Mr. Thomas T. Austen, a ranch-owner, of Austin, Texas, presumptively not unknown to Assistant-President Edward M. House." Those who are conversant with the facts are aware that the appointee of President Wilson as Minister to Colombia is Colonel Thaddeus A. Thompson, of Austin. Likewise, after referring to the merits of the retiring Minister to Guatemala, Mr. Robert S. R. Hitt, Colonel Harvey says: "His successor is Rev. William H. Lovell, of Austin, Texas, a Baptist minister aged sixty-three." Rev. William Hayne Leavell is a Presbyterian minister, a resident of the State of Mississippi, and never resided in Austin in his life.

We have no doubt that the Houston *Post,* which is sufficiently near to have access to the Family Bibles of the two Ministers, speaks with knowledge. Our excuse must be that, for some inexplicable reason, neither of the diplomats is mentioned in *Who's Who in America,* and we placed reliance upon current Washington correspondence. But we would not haggle; we apologize to both Colonel Thaddeus A. Thompson, of Austin, and the Reverend William Hayne Leavell, Presbyterian instead of Baptist (though we still have our doubts as to that) and resident of the State of Mississippi, and we cheerfully concede the probability that they will render equally efficient service under their real names.

Simultaneously it is but just that we should record the following facts set forth by an acquaintance of Mr. John B. Jackson, who was deposed from the Ministry at Rumania to make room for Mr. Charles J. Vopicka, formerly of Dolni Hbity and recently of Chicago:

> Mr. Jackson was appointed Second Secretary of Legation at Berlin in 1890, not 1900, was promoted to be Secretary of Embassy by President Cleveland in 1894, and remained in Berlin until 1902, when President Roosevelt appointed him Minister to Greece, Rumania, and Servia, Bulgaria and Montenegro being added to his mission subsequently. In 1907 he was sent to Persia, in 1909 to Havana, and in 1911 back again to Rumania, Servia, and Bulgaria. At the time of his retirement, last October, he was the only American diplomatist who had been in continuous service since 1890. Before that he had been in the Navy—from 1879 to 1886.

The letter concludes:

> You will note, therefore, that practically the whole of Mr. Jackson's life

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has been spent in the service of his country, as he has never had outside interests of any kind. The peculiar experience which he has acquired has no value for him naturally, and he is obliged to begin life anew. Cannot you offer some suggestion of benefit to those who, like Mr. Jackson, have surely some moral claim upon the consideration of the country which they have served faithfully to the entire satisfaction of successive administrations?

And we have to reply that we cannot.

The Colonel progresses steadily. There now seems to be little doubt that he demanded and obtained a fee of £400 for his speech to the Museo Social of Rio de Janeiro. The trustworthy *Edinburgh Review* confirms the story to that effect told recently by a Chicago merchant upon his return from Brazil.

In the course of an article on "The New Monroeism," the writer alludes to the lecture, and then says: "The Brazilian press seems to have been less impressed with the magnificence of the prospect thus opened up for the Latin-American countries than with the 'Yankee utilitarianism' which led an ex-President of the United States to demand a fee of £400 for the lecture in which he proclaimed the gospel of 'American Internationalism.'" The article goes on to speak of "the caustic comment of the eminent Brazilian scholar, Senhor Oliveira Lima, on these criticisms." Senhor Lima, after pointing out that the Brazilians had already spent some £12,000 for flowers of rhetoric from illustrious European lecturers, asks why they should reserve their censures for Mr. Roosevelt, "who for £400 has sung the beauties of American internationalism, and has gratified our vanity by promising eventually to intrust us with the big stick." Apparently there was occasion for this sharp rebuke, since the Chicago merchant reported that "the Brazilians politely paid the bill, but could not conceal their amazement," while the American residents were "deeply humiliated." Mr. Lawrence F. Abbott, President of the *Outlook* Company, on the other hand, is highly indignant at the suggestion that his distinguished associate violated the proprieties, and, while tacitly admitting the payment, insists that it was not a "fee," but "an honorarium," offered before Mr. Roosevelt left this country "without any suggestion or expectation on Mr. Roosevelt's part." In view of this circumstance, we perceive no cause for carping.

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The laborer is not only worthy of his hire, but is entitled to get it; and the directors might have forgotten to send the check if they had not received the bill. We heartily indorse Mr. Lawrence Abbott's sense of the fitness of things. But there is another phase of the incident which grieves us sorely. The Colonel ought not to have been so inconsiderate as to rob Mr. Bryan of his last remaining principle; that, as between friends and fellow-workers of, for, and by the people, was an unfraternal act.

We agree with the *World* that the country suffers little loss from the dissolution of the United States Express Company; it was a very badly managed concern. Nevertheless, it is difficult to see how the other express companies, however well conducted, can escape for long a like fate, as against Government competition. As the matter now stands, the companies are obliged to pay immense sums to the railroads for transportation, while the Post-Office Department pays absolutely nothing for the carrying of the six hundred million parcels which it estimates it will handle next year. True, the Postmaster-General said in his annual report that in view of the prospective "prodigious growth" of the parcels post, "the railroads, of course, will become entitled to additional compensation for this extra service imposed upon them, and the Department is engaged in gathering all statistical data necessary for ascertaining a correct basis for fixing a just, fair, and adequate compensation for the service rendered," and recommended that "on account of the increased weight of mails" due to the parcels post, he should be authorized to add to the compensation of the railroads not more than one-half of one per cent.; but the amount involved—about $250,000—was so trifling that neither the Congress nor the railway companies paid any attention to it. The consequence, of course, is that Mr. Burleson is making a "huge success" out of the parcels post and a great personal reputation wholly at the expense of the railroads. It may be that the railways can struggle along without the thirty-odd millions which they would receive on the English basis of division of costs, but how the express companies can long survive such competition is not easy to imagine. It is virtual confiscation, of course, but—well, what of it in these piping days?

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From a Washington despatch to the *Sun:*

Great interest was aroused here to-day when despatches from Mexico City announced that the Huerta Government had been included among the Governments to which the United States had sent a circular note in regard to arrangements for the proposed third Hague conference. At the White House it was said that if the Huerta Government had received a copy of the circular note it was through a mistake, and it was clearly indicated that the President still maintains that there is no Government in Mexico City to which such a communication could properly be sent by the United States.

Foreign diplomats here smiled behind their hands to-day when it became known that Huerta had promptly seized the opportunity again to turn the tables on Washington and had solemnly announced his acceptance of the State Department's proposal. Apparently the State Department will now be in the position of being obliged to refuse to accept the acceptance.

So it appears that accidents will happen in the worst regulated State Departments; but Mr. Bryan can hardly be made the scapegoat for this one; he was away. The real pity is that the sending of the note to the Mexican Government was "a mistake."

"The annual report of the Secretary of the Treasury breathes throughout the spirit of optimism, altruism, and psychology," was the *World's* comment in December. "His optimism enables him to figure out a revenue surplus for the next fiscal year of $26,000,000." The cheery prediction was worthy of a Redfield. The facts are that (1) the February customs collections were $10,000,000 less than in 1913, and the deficit was nearly $12,000,000, and (2) the fiscal-year deficit (with four months to come) was $51,000,000 as against $19,000,000 a year ago.

Man, like Truth, though crushed to earth, shall rise again. Kindly peruse this, O suffragettes, from Treasury Department regulations regarding income returns:

The husband, as the head and legal representative of the household and general custodian of its income, should make and render the return of the aggregate income of himself and wife, and for the purpose of levying the income tax it is assumed that he can ascertain the total amount of said income.

Can it be possible that Mr. McAdoo had his eye upon cer-

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tain possibilities when thus he officially restored to "the husband" his medieval status as "lord and master"?

It is not unusual to hear of an ex-Governor of Oklahoma being a candidate for convict, but there is novelty in an ex-convict being a candidate for Governor; yet such is the case of Mr. Albert J. Jennings, whose platform consists of a firm declaration that "the law shall be no respecter of persons." It is sound doctrine, but in the circumstances "continue to be" would savor more delicately of aptness.

It must surprise George Harvey exceedingly that the President has evinced no disposition to dismiss his Cabinet and subscribe to THE NORTH AMERICAN REVIEW.—*Columbia State.*

Our contemporary forgets that a Cabinet can be had for less than four dollars a year, and yet we are not prepared to say that THE REVIEW would not be worth the difference, as our Southern neighbor seems to intimate.

PAGE BLAMES LONDON PAPERS—SPEECH CONDENSED TOO MUCH, AMBASSADOR DECLARES.—*Newspaper headline.*

Too *much?* Impossible!

STATE DEPARTMENT OFFICIALS THINK CARRANZA'S ATTITUDE MARKS RECESSION.—*Newspaper headline.*

"State Department Officials"? Who are they?

The only really industrious "I. W. W." occupies the White House.

The Colonel will soon be home again!

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GOLDWIN SMITH

BY JAMES BRYCE

THE earliest picture in literature of a man of wide knowledge and wise thought who has with unquenched powers lived down into a generation not his own is that of Nestor as he is presented to us in the Homeric poems. Nestor had known the grandfathers and fathers of the chieftains of his later years, so all his juniors honoured him, and listened respectfully to his long discourses. But when in the vast and constantly changing society of these modern days of ours a sage or a prophet outlives all his contemporaries, there is a certain risk that he may be misunderstood and possibly even disparaged by the generation which did not know him till his prime had passed, and which has forgotten the men and the conditions that formed his character and doctrines. It seems therefore almost a duty laid upon those who, though much his juniors, remember Goldwin Smith in his earlier days, when he was a power in the political and literary world of England, to put on paper their impressions of him as he was then, and try to present a view of him which may prevent misconceptions either of his personal quality or of the ideas which he held with unwavering conviction and strove during more than half a century to propagate. He left a short Autobiography; and parts of his correspondence have been published,[1] but it sometimes happens that neither the letters which a man writes nor what he tells of himself conveys an adequate picture of him as he was in his best years. A brilliant talker, moreover, with a vein of sarcastic humour says many things which he does not mean to be taken literally, and which, when read in cold print may easily be misunderstood. So it

[1] *Goldwin Smith's Correspondence.* By Arnold Haultain: *Goldwin Smith, His Life and Opinions*, by the same writer, his literary executor, who had been for many years his faithful secretary, and has preserved many interesting fragments of his talk.

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may be worth while to give some personal impressions formed in a friendship which extended over more than forty-five years.

A distinguished man once described him as the last of the prophets of the Victorian age, and one might extend the same by calling him the last of the prophets of the nineteenth century, one who closed the line which began with S. T. Coleridge and culminated in Thomas Carlyle. Less constructive than the former of these two more famous men, and less poetical than either of them, he was even more fertile in production, and his activity covered a longer stretch of time. Born in 1823 he continued to write till the eve of his death in 1910. He could remember the passing of the Reform Bill of 1832 and he lived to see the rejection by the Lords of the Budget Bill of 1909, an event only second in importance to that Bill, for it directly led to the great constitutional change effected by the Parliament Act of 1911. He was six years old at the election of Andrew Jackson as President, and he survived the election of William H. Taft.

His father was a physician living near Reading in Berkshire, a cultivated man in easy circumstances, who could afford to send his son to Eton. At that school his abilities and especially his gift for Latin and Greek composition made him quickly conspicuous. When he proceeded to Oxford he carried off all the honours for which he competed, crowning his career by a brilliant essay "On the Political and Moral Benefits of the English Reformation," in which he showed himself already a finished master of style. Hardly any of his later writings surpassed this work of his twenty-third year. Entering at the Bar, he lived for some time in London, where he served as secretary to one Royal Commission and as a member of two others, but having some private means he did not seek legal practice, but gave his spare time to political and historical studies, and began to write for the press, first (I think) for the *Chronicle*, and then for the *Saturday Review* when the latter journal was established in 1855. His Oxford reputation had secured for him access to the best political as well as literary society in London. He soon came to know most of the leading men among the Liberals, and was still more at home in the Peelite group in which Gladstone, Sydney Herbert, Cardwell, Roundell Palmer (already an Oxford friend) and the Duke

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of Newcastle were the most prominent figures. He did not however try to enter Parliament but in 1859 returned to Oxford as Regius Professor of Modern History, and there remained for eight years. This was the most brilliant and effective period in his whole career. Oxford exactly suited his tastes and his gifts. As a fellow of University College, he possessed a sort of home within the college walls, but after a few years he built a house for himself on the outskirts of the city. He was admired and respected by the senior teachers and by all those among the undergraduates whose admiration was worth having. There were at that time in Oxford four men of outstanding talents and fame, Arthur Stanley, Professor of Ecclesiastical History and afterward Dean of Westminster; Benjamin Jowett, Professor of Greek and afterward Master of Balliol College; Mark Pattison, tutor and afterward Warden of Lincoln College; and Goldwin Smith. Of these four he was the youngest and the one who mixed most in general society and took the largest part in those ecclesiastical and political struggles which some would say "distracted" but as the undergraduates thought, delighted the University. Goldwin Smith was the natural leader of the Liberal party which then included nearly all the ablest of the younger professors and lecturers. He spoke sometimes in Congregation, the assembly of resident graduates. From time to time he issued a trenchant pamphlet. He was deemed an almost infallible arbiter on questions of scholarship or literary taste, and he was by far the most brilliant talker at all social gatherings. The question which then chiefly agitated the University was that of abolishing the religious tests which confine professorships, fellowships, and the higher degrees to persons who declare themselves, by subscribing these texts, to be members of the Established Church of England. He gave powerful help to the movement for abolishing this restriction and wrote on its behalf the most lucid and cogent of all the pamphlets and articles about it which issued copiously from the press. When in 1858 the course of sermons delivered on the Bampton foundation by H. L. Mansel (afterward Dean of St. Paul's) raised a keen theological controversy in which F. D. Maurice and other eminent divines of those days took part, Goldwin Smith published a small book entitled *Rational Religion and Rationalistic Objections*, which contained some of the most powerful passages that

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ever proceeded from his pen. Wit, argument, and sarcasm were never more effectively blended. He did not append his name to the book, but we all recognized it as his, for the style was unmistakable.

As professor of history, he was unsuccessful in one direction and wonderfully successful in another. With all his gifts, he had not the special gifts of the class teacher, freshness, spontaneity, the enjoyment of reaching the intelligence of others by bringing one's own mind into touch with them and leading them along into new paths of knowledge. Whether it was shyness and reserve—he was the most reserved man I have ever known—or something that lay still deeper in the constitution of his mind, he did not enjoy and scarcely even attempted giving of instruction to a class of learners.

I recall my own experiences when in 1861, being then undergraduate, I went to him on seeing public notice that the Regius Professor would see undergraduates who were studying modern history at a given hour in the hall of his College. Entering the large hall, I saw a long, gaunt figure leaning back in an armchair near the fire, a grim figure apparently buried in meditation. Drawing a chair toward him, I sat down and waited. Presently he said, "Of what did King John die?" I did not know, and admitted my ignorance. "He died of a surfeit of peaches and new ale," said the professor, adding in a reflective tone, "it would give a man a considerable belly-ache"; thereupon he proceeded to deliver in grave and measured accents, a discourse upon the Angevin Kings and their policy which, so far as I can remember it, was exactly what may be found in the History of England, entitled *The United Kingdom,* which he published thirty-eight years later. Few were the undergraduates who presented themselves before him on these solemn occasions, and I doubt if any were bold enough to interrupt the flow of his speech by any questions. Whether he ever formed a class I cannot now recall, but certainly his teaching of undergraduates came to very little.

The other part of his activity as professor consisted in delivering several times in each year what were called Public Lectures—*i.e.*, highly finished addresses to a general University audience, which generally included the chief teachers of the place, with a sprinkling of the more studious undergraduates, and not a few ladies. These were performances

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of extraordinary brilliance, for the thought soared high and the literary form was perfect. Some had touches of humour, others sparkled with epigram, but all were stately, and one, on Gustavus Adolphus and Wallenstein, lives in my memory as the finest lecture that I ever heard at Oxford. It had the impressive solemnity of a Greek tragedy.

Meanwhile his interest in current politics had been quickening, and he grew more definitely Radical in his sentiments. Cobden and Bright came to visit him. He was invited to speak in the towns of Lancashire and Yorkshire, and more than one constituency in those counties would gladly have sent him as its member to the House of Commons. Especially was he prominent as the most powerful voice and pen that defended the course of the Northern States during the American Civil War. In 1864 he had gone to the United States, had visited Abraham Lincoln and also General Grant, then commanding in Virginia, and had delivered at Boston a memorable address which was reprinted in England and produced a profound effect there. From that time his relations with America were close and constant.

In 1867 his father fell ill, and he resigned his Chair at Oxford in order to go and live at home; and in 1868 he astonished Oxford and the world by suddenly announcing that he meant to leave England altogether and settle at Ithaca, in New York State, as professor in the University just founded there by Mr. Ezra Cornell. Why should one who in his own country had reached the height of literary fame, one who enjoyed the friendship of the leading men in politics, one who had a Parliamentary career awaiting him if he would but say the word—why should such an one choose at forty-five years of age to expatriate himself and take up his dwelling in a village among the hills of Western New York? The explanations which he gave then and subsequently,[1] that he wished to study and write upon American history, and thought this could be conveniently done as a lecturer at Cornell, do not seem to explain so strange a decision. To some of his Oxford friends it appeared probable that he was tired of his own country and a little weary of the University, perhaps weary of England, and that not quite knowing what to make of himself there, he cut the knot by leaving

[1] They may be read in his autobiography, and at p. 49 of Mr. Haultain's book, *Goldwin Smith, His Life and Opinions*. See also the article by Mr. Haultain in THE NORTH AMERICAN REVIEW, November, 1913.—EDITOR'S NOTE.

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the country altogether. And he may possibly have felt on the one hand that if he remained in England he would be unable to resist the pressure put on him to enter the House of Commons, while on the other hand he knew that its Parliamentary life would try to the utmost his extremely sensitive temperament. His austere judgments and formidable sarcasms would have made him many enemies, and however superior to their assaults he might have felt himself to be, the wounds would rankle. In doubting his own fitness for a popular assembly he was right. His oratorical capacity remarkable as it was, did not include the power of debate. Neither would he have found it easy to work with others as a member of a Cabinet, for only by compromises do Cabinets hold together.

To Ithaca he went, and there I visited him in 1870 in company with his and my friend Mr. Albert Dicey, afterward Professor of English Law at Oxford. We reached him just after the fall of the Emperor Louis Napoleon, and found him happier than I ever saw him before or since, for he detested the Bonapartes and all their works, and had poured out the vials of his wrath upon the French ruler and Court many a time and oft in the paper of the *Saturday Review*. With all the Oxford Liberals of those days, except Jowett, hatred of the French Emperor was the first article of faith, looking upon France as the disturber of Europe. Goldwin Smith was, not indeed an admirer of Bismarck, yet a warm partisan of Germany in the war of 1870. He was more prone to racial antagonisms than an historian ought to permit himself to be; was markedly anti-Semitic, and had the old-fashioned English suspicion of the Gallic race.

To us he seemed quite at home in Cornell. He liked the scenery of Cayuga Lake, was more affable to the undergraduates than he had ever been at Oxford, enjoyed the simplicity of American ways and the friendliness of American manners. Indeed he never ceased to have a warm affection for the American people, and in later days was fond of coming to spend a few days in Boston or Washington or Lakewood (New Jersey). But he had already formed a low opinion of politics as practised in the United States. Tweed and his gang were then ruling New York, and when, after listening to his description of the doings of the Ring and their allies Jim Fisk and Judge Barnard, we asked him what the " good citizens " could do to protect themselves, his an-

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swer was, "Hire gladiators, perhaps, as they did at Rome in the days of Cicero." He was incensed at a speech which Sumner had shortly before delivered against England in the Senate, apropos of the *Alabama* claims, for though he had quitted England forever, his English patriotism and sensitiveness for his country had suffered no eclipse.

In 1871 he went to Toronto, where he had some relations, and presently settled there, though he retained his connection with Cornell, and from time to time came across the border to lecture. In 1875 he married a Boston lady, widow of an eminent Canadian, and thenceforward made Toronto his home. Nothing could have been more happy than his domestic life till this union ended with his wife's death thirty-three years later.

He had not been long in Canada before he threw himself into the politics of the Dominion, which the British North America Act of 1867 had recently called into being; and from that time till his last illness he never ceased to write on public affairs. It is however only one branch of his political activity in his adopted country that needs to be noticed, and to it I shall presently advert.

Regarded as a politician Goldwin Smith belonged to a type rare in his own generation and now practically extinct, a type whose nearest affinities were to be found in the republicans of Rome or, still better, such English statesmen of the seventeenth century as Pym, or Sir Henry Vane the younger or Algernon Sydney. He was an austere moralist, with more of the ancient Stoic than of the Christian in his view of life, and his politics were built on the foundation of his ethics. Theoretically a republican, and practically, as he would have deemed himself, a democrat, there was nothing Jeffersonian in his view of the people. He felt for the sufferings of the poor as a Christian ought to do, and he valued human equality as a philosopher ought to do. He disliked courts and all distinctions of rank, and above all the power of wealth. But he had no great faith in the multitude. His Radicalism in British politics expressed itself not so much in wishing to deliver power to the masses as in wishing to take it away from the classes that were, as he thought, abusing it for their selfish purposes. He had not the making of a popular leader, for he would have felt bound to tell the people of their faults.

When in the fifties he began to think and write on the

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politics of Britain, the belief that the colonies would soon fall away from the mother-country, and that it would be for their good and her good that they should become independent communities, was pretty general among British statesmen. It may be found expressed even in a letter of Disraeli's, and it was doubtless held by Cobden, though I do not remember that Mr. Gladstone ever committed himself to it. Goldwin Smith accepted it the more readily because his feelings of humanity were often shocked by the oppressions practised by Europeans upon the native races with whom they came in contact, and he wished to keep England free from any such stain. Jingoism, though not yet called by that name, was just beginning to show itself in England, and it filled him with disgust. In 1863 he published in a book, called *The Empire,* a series of letters in which he argued against any further extension of British dominion, and assumed the ultimate independence of the colonies inhabited by white men to be the natural and proper issue of their development. When he settled in Canada he applied this doctrine to her case, at first contemplating her growth into an independent republic, but afterward conceiving that she ought to unite with the United States. Geographical and commercial considerations seemed to him decisive on the point. When it was pointed out to him that it was better that more than one experiment in democracy should be tried, and that the English-speaking race on the American continent ought not to put all their eggs in one basket, he half admitted some force in the argument, but presently fell back to his previous conviction. This view, which had in 1871 some supporters in Canada, found less and less favour there as years went on and as the Dominion grew. But Goldwin Smith was not the man to yield to any majority, however large. The more unpopular his opinions became, the more vehemently did he continue to urge them, till at last most Canadians knew him chiefly as the man who wanted them to turn their backs on the mother-land and be swallowed up in the vast republic to the South. He was, for a scholar, and historian of first-rate ability, extraordinarily set and dogged in his views and unwilling to recognize the signs of the times when they went against him. In 1897 he was well aware to how much odium his attitude had exposed him, for I remember that when on the occasion of a conferring of some honorary degrees by a Canadian University, I observed to him, " You of course

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have one already," he replied that he was the last person to whom they would give one. It was not until 1907 that he sadly admitted to me that his cause was hopeless, there being by that time virtually no Canadian voices raised in favour of union with the United States.

This discouragement, however, and this sense of his own unpopularity, neither lessened his activity nor embittered his language. He was far too proud to complain, or to let any one conceive whatever vexation he felt, and he continued to pour forth a stream of brilliant writing on current Canadian issues, denouncing anything that savoured, however faintly, of corruption, censuring what he called the "opportunism" of successive Prime Ministers, deploring the evils of party government, and pointing out to the Canadian farmers the benefits which free trade would confer on them. His productivity was the more wonderful because he wrote with equal mastery on historical, economic, and literary topics. His magazine called *The Bystander* was all the work of his single pen. Neither did he neglect European affairs. He frequently wrote letters to English newspapers; and when Mr. Gladstone brought in his first Home Rule bill, in 1886 he appeared as one of its most determined opponents. To many English Liberals this came as a painful surprise, for he had written, thirty years previously, the most powerful indictment of English rule in Ireland that had ever proceeded from an English historian. *Irish History and Irish Character* is one of the best of his books, presenting in small compass a complete sketch of the causes which produced the misfortunes and the discontent of the Irish people. However the remedy which Mr. Gladstone proposed seemed to him to go too far, and his sympathy had been, like Mr. Bright's, alienated by the acts of violence which had stained the Irish agitation, and by the bitterly anti-English attitude at the election of 1885 of some of the Irish leaders.[1]

Little as his opponents knew it, Goldwin Smith was an intensely patriotic Englishman, though his idea of patriotism differed from theirs, and disposed him to openly con-

[1] In the course of his denunciations of Home Rule he attacked with some acrimony Mr. E. L. Godkin, who was advocating it. Mr. Godkin, who never took anything "lying down," replied in a similar strain, and a breach of friendly relations followed. Some years afterward Goldwin Smith repented, and wrote desiring a reconciliation. Godkin accepted gladly the outstretched hand. Both were preachers of righteousness in politics, so there was joy among their common friends.

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demn his country when, as in the case of the South African War, he thought her in the wrong.

He was more of a statesman than of a politician, and more of a political thinker than of a practical statesman, by which I mean that his gift lay rather in seeing the principles to be applied than in knowing when and how to apply them. His thinking was broad, luminous, comprehensive, elevated, and if it was less imaginative than Burke's and less ingenious than Walter Bagehot's, there was perhaps no one, except Bagehot, among his contemporaries who rose superior to him in grasp, and certainly no one who equalled him in the power of expression. Yet this very gift of expression was a source of weakness, or perhaps the revelation of a fault in the structure of his mind. When he came to England in 1876 for the first time after his departure in 1868, I invited several eminent historians to meet him at dinner, and among them John Richard Green. Goldwin Smith talked brilliantly, as always; and the next time I met Green I asked him how he had been impressed. "He appeared to me," was the reply "to be always locking the door." Green meant, as he explained, that Goldwin's habit was to sum up all he had to say on a subject in two or three striking phrases, which seemed to leave nothing more to be said, and arrested the further play of mind and talk on the question under discussion. Never before had I quite understood what it was that made his conversation, full of knowledge, reflection, and penetration as it was, unsatisfying. His intellect, strong and clear, lacked that sort of fineness which perceives that there is a subtlety in nature—*i. e.*, in human things as well as external objects—which no power of words can fully compass or express, and it lacked also that flexibility which enters into the minds of others and feels that the phrase which satisfies the speaker himself may not satisfy them. His conversation was not monologue, for he did not, like Macaulay, appropriate the field to the exclusion of others. But it was the deliverance of his own opinions rather than an interchange of ideas, and the interlocutor seldom felt that what he put forward had much effect in modifying what Goldwin had already settled for himself.

There was in him that note, characteristic of the prophet, that you could not argue with him, for, like other prophets, he was eventually a solitary soul, and did his thinking alone, brooding in silence over all he read or saw, seldom influenced

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by others. When he began to deliver himself, it would hardly have startled one if the first sentence had been "Thus saith the Lord." Without the glowing intensity of Mazzini, he gave the same impression of unshakable conviction. The weakness of this splendid independence is that it often disables a man from following the movements of opinion in the world around him. As Mazzini would never admit that Italy could be free and prosperous except under a republic, Goldwin Smith continued to cling to the ideals and doctrines of his early manhood. Some of those doctrines have been proved to be sound. It would have been well for the British people if they had taken the advice he gave them forty years ago to reconstruct their House of Lords in a deliberate way before a party crisis arrived. But even before old age overtook him he had lost touch with British politics, though he continued to write about them with the old confidence. About seventeen years ago I had from him one letter after another urging that English Liberals should unite themselves and find a live political issue in a campaign for the disestablishing of the Church of England. That was just the time when every careful observer in England had begun to perceive that the sentiment for disestablishment was becoming weaker, because other questions had begun to fill the public mind, and that to raise the issue would bring no strength to any party that raised it. Aversion to ecclesiastical power had been always among the principles he most cherished. It was the only thing he had in common with Froude, whom he heartily distrusted and disliked. Though he had dropped all dogmas, he was of a profoundly religious temper, and held that religion had suffered and would continue to suffer from any connection with the civil power, whether as ruled or as ruler.

Though two prophets could be hardly more unlike than were he and Carlyle, there was this point of resemblance that both talked exactly like their books. Carlyle was, to be sure, far more picturesque and vivid, but Goldwin Smith's discourse was more perfect in form. Every sentence might have been printed just as it fell from his lips without needing any correction, yet there was no sense of effort, no straining after effect. He had indeed a genius for expression, and a power over language, even more remarkable than his power of thought. Nor was this confined to English. His Latin style was unexceptionally classical—*i. e.*, what-

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ever a Roman might have thought of it, no one at Oxford or Cambridge could detect any error. Yet it was not, like the Latin compositions of nearly all modern scholars, imitated from Cicero or Livy or Tacitus. It was his own style, just as the Latin of Erasmus or Francis Bacon is their own. He handled the language with the same ease and felicity as he did his mother-tongue.

He was one of four men who may be deemed to have been in his time the chief masters of English prose. Two of them everybody will place in the front rank. I mean J. H. Newman and John Ruskin. A third is less known, because he wrote on subjects that do not attract the general public, but those who have studied the collected essays of F. W. H. Myers, a poet who wrote so little that he is almost forgotten except by those who read him when he and they were under thirty, will probably agree with the view that no richer and more melodious prose has been produced in our time. The supreme merit of Goldwin Smith's writing is the union of clearness, strength, and brevity. Its weakness lies not in the diction, for that is hardly to be surpassed, but in the fact that in his articles or books the argument does not march. Each, be it book or article, is not so much a connected whole as a series of splendid paragraphs. There is no effort, and the epigrams are not dropped in or plastered on to light up the narrative and argument. They seem inevitable, because the most natural as well as exact expression of the writer's thought.

Surely no one in our time has possessed an equal gift for terseness. His history of the United States is a slim volume which can be read through between lunch and dinner, but it contains everything that is essential for a comprehension of the growth of the North American colonies, of the causes and course of the Revolutionary struggle, of the struggle over slavery and the Civil War that followed. Compressed narrative is usually dry narrative. But his skill in selecting the salient facts and his power of setting in the strongest light, by a few touches, a character or a dramatic situation keeps the reader's interest from flagging for a moment.

Froude also wrote well. But one could not trust Froude; for he was a partisan, he was capable of hideous blunders, and he was apt to sacrifice truth to literary effect. Goldwin Smith was as thorough in the substance as he was finished in the execution of his work. I remember a remark of E. A.

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Freeman, made when they were both in Oxford: "Where," he said, "does Goldwin get his knowledge? He is not a great reader, he is not what you would call a learned man, like Stubbs, yet he seems never to make mistakes." He was not very learned, but he had that instinct of a trained historical mind which keeps a man out of errors. If he knew a thing, he knew it right. If he did not know it, he knew his own ignorance and avoided the pitfalls into which heedless men stumbled. And he had also a talent for hitting on some small trait or incident characteristic of the man or the time, and enlivening his narrative by it. One of the charms of his talk was the profusion of anecdotes of the famous men of the generation just before his own which he liked to pour forth, as he lay back in his leather armchair beside the fireplace in his stately old house at Toronto, raising and dropping his head as he talked, poising the heel of one foot upon the toe of the other, and slowly swinging both from side to side.

Why with talents which made him the peer of the greatest men of his time in England or in North America, and with the enormous advantage of being able to command his whole time because he never had to work for his living, why did not his untiring industry issue in some historical or philosophical work which would have seized and held the attention of the world and preserved his name for many a year to come? The obvious answer is that his interest in what was passing, and his eagerness to refute errors and denounce evil-doers, lured him into journalism and made it a habit without which he could not live. But one may suspect that his mind was really rather critical than constructive; and that some sort of subconsciousness of this fact prevented him from essaying any very large task in which he would have had to fit many parts into a great whole. Moreover the historian, hardly less than the politician, must be able to go on always learning, following the movements of increasing knowledge and the course of events as they happen, and letting all the breezes of the time blow through his mind. This was not Goldwin Smith's way. His opinions on history, as well as on politics, had crystallized long before he was fifty, and though he added much to his store of knowledge, his views underwent no development. For thirty years he continued to repeat that party government was a crying evil both in Canada and in Britain, but never did he

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suggest any other means of working a Parliamentary system. In this glacial fixity of opinion he resembled Disraeli and Bright, who (from causes that need not be here discussed) retained through life, very little modified, the views each held when he entered Parliament, but was unlike Peel and Gladstone, both of whom kept an open, and, as some thought, a too open, mind. But one must remember that Peel and Gladstone lived in the middle of the strenuous and multiform public life of England, where many influences of men equal to them in knowledge if not in power were always playing on them. Goldwin Smith stood isolated in Toronto, in little direct contact with practical politicians, his intellectual primacy so generally recognized that the views of others failed to have their due effect upon him. Better had it been for him to have remained in the midst of the political life of London or of the intellectual life of Oxford. As things turned out, one must regretfully admit that his life-work in politics at least was less than might have been expected from such admirable gifts. So far as Canada was concerned, he was the apostle of a lost cause; and perhaps his greatest service, both to the United States and to Great Britain, was rendered in the days of the American Civil War, for at a time when a large part of what called itself "society" in England, and still more in France, had shown itself in sympathy with the Slave States, his writings presented the case for the Union with incomparable earnestness and power.

Those who were struck by his grave and almost stern aspect, no less than those who read his scathing censures of the sins of public men, were apt to mistake his character. Austere indeed it was, making too little indulgence for human weakness, but beneath his austerity there was not only an abundant sense of humour, but a great tenderness and power of sympathy. His many acts of personal kindness to the suffering and needy were known to few, for he carefully concealed them. His willingness to exert himself and spend his time in the promotion of any good cause was unfailing. He was perfectly disinterested, altogether superior to any of the vulgar ambitions. Though more sensitive than a politician ought to be, he was not vindictive. His strictures on Disraeli were no more severe after Disraeli attacked him than they had been before, and they were due, not to any personal resentment, but to the scorn which he

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felt for Disraeli's untruthfulness. No imputation could have been more absurd than that which the latter cast on him of being "a social parasite," for he was an intensely proud man who never asked a favour or met any one except on terms of equality. With him indeed pride was so great as to exclude vanity. He hardly ever referred to any success he had achieved, and when his Oxford friends wished to present to the University picture-gallery in the Bodleian a portrait or bust of him, he declined the compliment. It was a pity, for he had a noble head, with features which well expressed the dignity of his character. Few men have so consistently lived up to the lofty standard of conduct which they set for themselves and exacted from others, and few have shown in their writings as well as in their action a more constant loyalty to truth and to the highest interests of humanity.

The last time I ever saw him in public was in 1907 at a gathering of the Canadian Club in Toronto under the presidency of the Governor of the Province. He attended it, not meaning to speak, though he ultimately said a few words. There was in the large and crowded hall hardly any one, either among the elder men, leaders in local society or of the youth of the city, who agreed with his political views, and many of the younger sort had been brought up to look upon him as the dangerous man who wished to see Canada annexed to the United States. But when he walked slowly through the throng to his seat on the dais, his stately figure, still erect in extreme old age, they all remembered how many acts of private benevolence he had done, how sincere, how upright, how courageous his course of life had been, what an example of unselfishness he had set, what lustre his genius had reflected on their city and their country, and a sudden tempest of applause swept over the hall.

JAMES BRYCE.

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COMPLETING THE ANTI-TRUST PROGRAMME

BY SAMUEL UNTERMYER

THE constructive legislation which the Administration has already achieved points to the belief that Congress will approach with confidence the next step in the programme of releasing business and credit from the shackles of the special interests. It is not claimed by the framers of the Anti-Trust Bills now under discussion that they are not capable of substantial improvement in important details, and free criticism has wisely been invited as when the Tariff and Currency Legislation were pending. It is in that spirit, and as an ardent champion of the fundamental principles embodied in the Bills, that I enter upon this brief and all too inadequate discussion of their merits and defects.

For convenience they may be generally classified as affecting the following subjects:

1. Interlocking Directorates.
2. Holding Companies.
3. Amendments Supplementing the Sherman Act.
4. "Definitions Bill."
5. Trade Commission.
6. Railroad Bond and Stock Issues.

The following suggestions are respectfully advanced with respect to these Bills, which, by the way, should be consolidated into a single bill.

Interlocking Directorates. This and the "Holding Companies" and "Bond and Stock" Bills are in line with three of the twenty-seven Recommendations of the Report of the Pujo Committee that were intended primarily to restrict the power of the Money Trust. The two first-named Bills should constitute the most important part of the pending Anti-Trust programme.

In its present form the Interlocking Directorates Bill is too drastic in some respects, whilst in others it is believed

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to be ineffective and unworkable. It strikes only at the form and does not reach the substance of the greatest existing evil in corporate management. The practice of permitting men occupying the fiduciary relations of Directors to hold the inconsistent positions that are necessarily involved by their service on the Boards of competing financial and industrial institutions is contrary to the most elementary rules of fair dealing. Having tolerated that practice, we ought not be surprised to find them dealing with themselves and using their corporations in their own interest. The opportunities for direct and indirect secret and illicit profits from this trust relation have in the past been so prolific that the most powerful men in the financial world have been attracted to their Boards of Directors and have served without pay.

It may be that under the new code of ethics that will be ushered in with this legislation these men will not find it to their advantage to continue to serve, and that we shall have a less formidable array of names on the Boards of great corporations. If this shall prove to be the result, it will not be without its compensating advantages. There will be at least concentration of energy upon the interests of the companies that these men will serve, instead of scattering it over numerous corporations with conflicting interests.

In no other country has the system that has grown up with us been tolerated. Interlocking Directorates in competing companies are unknown in other countries. Their Boards are small in number, the Directors are adequately paid—as they should be with us—by fixed salaries and frequently by an interest in the profits, but they are held to a rigid responsibility. With a reduction in the number of our unwieldy Boards there will be plenty of men to go around. There will be less delegated and more real management.

The difficulty in solving this problem is not on the point of Interlocking *Directorates*. It is in the interlocking *control* that the vice lies, whether evidenced by identity of stockholdings, through voting trusts, dummy directors, or otherwise.

The Bill is too rigid in prohibiting, without limitation, any person from being an officer or Director of more than one bank. There is no reason why the same person should not be largely interested and represented on the Boards of Di-

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rectors in different banks in different cities that by reason of their location are necessarily non-competitive. On the other hand, the Bill would permit the same person to own or control all the banks in a given locality, and to manage them through dummies. It ought to be entitled "An Act to Substitute Dummy Directors in Banks." It will unsettle business, and will not reach the evil at which it is aimed.

The following changes are suggested:

1. Confine the prohibition to Directorships in actually or potentially competing corporations.
2. Extend that prohibition so that no person can own or be beneficially interested to an extent exceeding ten per cent. of the stock in any competing corporation without the consent of the Trade Commission or of the Interstate Commerce Commission in the case of railroads and under regulations as to the voting of the stock to be prescribed by the Commission and that will permit it to discover attempted evasions.
3. Exclude from the operation of the Act Banks in all Cities of less than 100,000 inhabitants. The danger from the concentration of the control of credits for great enterprises arises from the conditions in a few big Cities. There is no occasion to hamper small business.
4. Prohibit "dummy" Directors and all other forms of hidden control and vest in the Trade Commission the power to determine and enforce all such prohibitions.

It is impossible to lay down general prohibitions beyond the rigid rules above specified that will be sufficiently broad to cover all cases and that would not do incalculable harm. The question to be solved is such that the statute cannot be made effective and at the same time self-executing. There must be discretion lodged somewhere, except in so far as the prohibition relates to control of or representation in competitive corporations. There it may be specific and rigid.

The few simple regulations that could safely be laid down must be supplemented by delegating the power to an executive body to ferret out and prohibit every form of interlocking control of competing corporations.

The Fourth section of the Act is clearly unconstitutional. By its terms the mere fact that the same man is a Director in two corporations that are or may have been at any time in the past competitive makes him *conclusively* guilty of a crime and renders both corporations *conclusively* violators of the Anti-Trust law.

The provision should be changed so that the fact of such a common Director shall be only *prima facie* and not conclusive evidence of guilt. That would still impose the bur-

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den upon the Director and the corporations concerned, but would give the opportunity to rebut the presumption by proving the facts. None of the prohibitions of the Bill should apply to Directors of Mutual Savings Banks that are not conducted for profit.

Holding Companies. Here, again, it is impossible to lay down a rigid rule that would be effective except to the extent of prohibiting any corporation from holding the stock of an actual or potential competitor. All other holdings by a corporation of stock of another corporation should require the approval of the Trade Commission.

The proposed Bill makes no change whatever in the existing law. It is the most impotent of this entire body of legislation. The permitted continuance of abuses is a grave injustice to the oppressed minority stockholders. It will probably be construed as impairing their existing threadbare remedies. The problem can be solved without surrendering it, as is done by this Bill.

It may be stated as a general proposition that the holding company has been a blight upon corporate management; that it is responsible for many of the worst abuses, not the least of which is the oppression of minority stockholders. Ordinarily it should be a legal maxim in the regulation of corporations that every corporation should manage itself and should not be managed or controlled by any other corporation. And yet there are many cases in which the application of this rigid and drastic rule would seriously and unnecessarily embarrass legitimate enterprise for which provision can be made without entirely denying relief against existing abuses.

There are exceptions that should be engrafted upon the rule, but they assume so many phases that no law could be framed to provide for them specifically without almost destroying the rule. It has been suggested that the prohibition be made general, except that in States that require local incorporation in order to hold the title to lands, and a few other cases, such holdings be permitted. That suggestion offers no solution. There are many other classes of holding companies that are essential to modern business. Such companies have been formed to acquire interests in various gas, water-power, electric-light, street-railway, mining, and other businesses in various parts of the country that are necessarily non-competitive. These companies

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issue and sell their own securities against their holdings in other companies, thus equalizing the risks to the small investor. Some of the ventures may be successful; others may be failures. Conservative investors, who may not be willing to put their money at the risk of a single mining venture or public-service corporation, find this a favorite form of minimizing their risk.

Holding companies are also essential in the extension of our foreign trade. If, for instance, a merchant wants to extend his business to a South American country by establishing a factory or branch there, he would naturally require local management and would interest local capital in the enterprise, but the home corporation would furnish the bulk of the capital and have the controlling stock in the foreign company. The same is true of railroad companies having part of their mileage in a foreign country held in that way because of the law of the foreign country.

It should be the province of a Trade Commission to authorize such holdings and to determine the character of securities that may be thus held.

If, after prohibiting the holding by any corporation of the shares of an actual or potential competitor, the Bill were to further prohibit all other stockholdings except as approved by the Trade Commission and apply the rule to existing companies, we should have a reasonable solution of the problem. These questions are not so inherently difficult that they should be given up in despair.

Amendments to the Sherman Law and the "Definitions Bill." There are four fundamental defects in the present Anti-Trust Law which should be corrected by supplemental legislation before it can be regarded as an effective remedial statute. All of them refer to the administrative features of the Act, and all are intended to be reached by these two Bills. They are:

1. To fix personal responsibility for illegal corporate acts. The corporate form is a mere shield behind which the individual acts. The now trite saying that guilt is personal should be written into every line of the law.

Section 4 of the much-criticized "Definitions Bill," which we are now told is to be abandoned, supplies this defect. It is said that the officers, directors, and agents who do authorize any of the acts now prohibited are individually liable under existing law, but the statute does not so state

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in so many words, and the Act has not proven successful as a criminal statute. Whatever doubt there may be as to such individual liability should be and is set at rest by Section 4. The Bill would also bring within the law a number of existing practices that should be regarded as violations. The business of the Associated Press as now conducted may be cited as an illustration of this class of case. It would be difficult to conceive of an industry more peculiarly impressed with a public use than one which is engaged in gathering and distributing the news of the world. Its importance as an agency of commerce is fully as great as that of the railways. It ought not to be possible, as it apparently now is under existing law, to obstruct competition in the newspaper field by denying its facilities to a new enterprise.

The " Definitions Bill " as now drawn would have to be slightly enlarged by the addition of a few words to include cases that are not now plainly within the scope of the Anti-Trust Law, of which this is offered merely by way of ready illustration. The Bill painstakingly preserves the meaning and effect of the present law. It enlarges and makes more precise the cases of violation, but as to existing offenses it in no way disturbs the construction put upon the Law by the decisions. There is no basis for the claim that it would unsettle the law unless language is meaningless.

The argument that is advanced in many reputable and disinterested quarters, that to enumerate and define restraints of trade would weaken the law as now constituted, is based upon the assumption that Congress is incapable of making itself understood by the Courts. The proposed " Definitions Bill " specifically provides that the supplemental legislation shall not limit or restrict the meaning or effect of the existing legislation.

In the face of these provisions it is argued that the scope and effect of the existing provisions as now construed by the Courts will be weakened by the attempt of Congress to make it plain that existing violations as construed by the Courts shall continue to be violations, and that other specific acts upon which the Court has not yet expressed itself and which may or may not be violations under the law as now framed shall hereafter constitute violations.

We are not referred to any provision in the proposed amendment that could possibly have any such result. All were intended to enlarge existing rights and remedies. The

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argument is quite inadmissible. On that theory Congress could never safely undertake to amplify any existing law.

2. To provide effective machinery for (*a*) discovering violations and (*b*) for executing judicial decrees for the segregation of unlawful combinations and to see that they are kept disintegrated.

This cannot be accomplished by the Courts. Their procedure is not adapted to that purpose. An executive body is needed to assist in devising the Plan of Disintegration and to watch over its execution. It should include the right to decree actual partition of the property that thus comes under the jurisdiction of the Court, to the end that these combinations be dissolved as nearly as may be into their original component parts, and so that no one who is interested in one of the segregated parts shall be apportioned or permitted to acquire an interest in the others.

3. To provide an adequate and independent remedy in equity to all who are or may be injured by the existence of a combination in violation of law to enjoin its further continuance, or, if necessary, to dissolve it. I doubt whether any of the existing Trusts, pools, or secret arrangements with which the country is now honeycombed in one form or another would ever have come into being if such remedies had been originally provided.

It is a far more effective way of preventing them in the future than Government prosecution. The remedy at law given by the statute is in most cases meaningless. The damages are rarely provable under our rules of evidence, which require that they must be shown to be the proximate cause of the injury. The very existence of the violation is often *in and of itself* the only cause of complaint and the most destructive factor. The illegal corporation may do no specific overt illegal act. Its domination of the industry may be its only offense.

Section 13 of the Bill to Supplement the Sherman Law supplies only a partial remedy. It permits an individual to sue in equity for an injunction, but still renders it impossible for him to sue for the dissolution of the corporation.

The only real remedy in such a case is to dissolve the combination. Every person injured should have that right. He should not be required to await the slow processes of Governmental action. Many persons have been ruined before that could be invoked. The objection is made that the granting of such a right would deluge the corporation with baseless lawsuits. Every one is subject to lawsuits that may be

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without foundation. Why should corporations be protected against a particular class of injuries that they may inflict when neither they nor individuals are immune against being haled into Court for every other class of alleged injury? Our Courts and legislators have gone too far toward restricting the right to sue corporations. The Supreme Court rule with which minority stockholders are required to comply before they can assert their rights has been a standing encouragement to corporate abuse. If the books of the corporation and the Courts had been thrown wide open to every shareholder much of the carnival of corporate corruption that has disgraced the country would have been avoided.

It has become too much the fashion to cry "blackmail" at every effort of oppressed minority stockholders to protect themselves against dishonesty in the management of their corporations, and the Courts have lent too ready an ear to that plea.

Any possible peril in allowing this form of action in equity to an individual may be avoided by requiring that the Government be made a party, and that the suit cannot be discontinued without its consent and by giving to the Government the right at any time to assume the prosecution of the action or to withdraw from the suit, and providing further that unless the Government assumes the prosecution it shall not be bound by the judgment. This would obviate all possibility of using the right to oppress the corporation.

4. Any judgment secured by the Government either in civil or criminal proceedings declaring the corporation illegal should be available to every injured person. The expense of independent action is often prohibitory, and there is no reason why the Courts should be called upon in each case to again try the question of illegality where it has once been determined against the corporation.

Trade Commission Bill. The latest Bill promulgated by the House sub-Committee covering this subject is most disappointing to the friends of corporate regulation and reform. It relegates the Commission to the position of a mere annex to the office of the Attorney-General. It cannot even enforce the attendance of witnesses or the production of books without his approval. It can inaugurate no inquiry on its own account to determine whether the law is being violated.

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One can appreciate the wisdom of starting with small beginnings and of making haste slowly in entering upon this new field of Federal supervision with the purpose in mind of adding to the power of the Commission from time to time as experience may warrant. The power of the Interstate Commerce Commission was evolved in that way. But if that Commission had started, as proposed by this Commission, as a mere adjunct of the clerical force of the Department of Justice, it would not have had the opportunity to vindicate its usefulness and its authority would never have been enlarged. If it had been compelled to await the direction of the Attorney-General in the case of each corporation before it could investigate whether rates were too high, or illegal rebates were being allowed, or other unjust discriminations practised, it would have made no headway in correcting the then existing abuses.

This Bill does not permit the Commission to go "hunting for the rat" until some other body or official has "smelled him" and directed the chase. There is no provision for complaints by injured parties and no power to act independently upon them. The Bill has been carefully stripped of all vitality and is a mere empty shell.

There is no attempt here to deal with the innumerable secret arrangements in the forms of pools fixing prices, limiting production, and otherwise restricting competition, "gentlemen's agreements," and other similar devices with which the country is honeycombed. It is estimated that they exist in one form or another in about one-half of the great manufacturing industries of the land. They are far more perilous to competition than the corporate forms of restraint of trade. The jurisdiction of the Commission under this Bill is limited to *corporations* with assets of $5,000,000 and over. These arrangements are never in corporate form. How are they to be reached unless the Commission is given power to require information of every business engaged in interstate commerce regardless of whether it is in corporate form?

True, the Commission may classify corporations so as to include others, but these are not corporations and they have no capital stock. The same criticism is true of the failure to provide for supervision over such forms of control as "Massachusetts Trusts," under which many unlawful combinations are hidden. They are not incorporated;

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there is no supervision over them, State or National. Yet they exist in numbers of important industries and they issue securities that are widely distributed and dealt in all over the country. They elect officers and directors and exercise all the powers of corporations without being subject to any of the corporate restraints or responsibilities. They have stood the test of legality as to form and are represented in hundreds of millions of invested capital. This Bill would not even offer a way of inquiring into their existence.

This should be the central feature of every Anti-Trust programme. For every dollar of tribute that is laid upon the people by private monopoly or corporate consolidation it is within bounds to say that one hundred dollars are taken by the secret understandings between competitors.

Unless they are included in the programme of Government regulation the legislation might as well not be undertaken. This Bill should be the most effective part of the programme. It is the most innocuous. It pretends to regulate and accomplishes nothing.

If this represents the entire authority proposed to be delegated, there is no excuse for interfering with the present Bureau of Corporations or of incurring the added expense of paying salaries of a Commission to do very little more than the Bureau now has power to do.

But the main criticisms of the Bill rest upon the total lack of power of initiative as the result of investigation. Why should there be left with the Attorney-General the sole authority to enter into agreements with offending corporations for the removal of violations or for bringing the corporation within the law? Why not delegate this power to the Commission, or, in the case of railroads, to the Interstate Commerce Commission, with the sanction of the Attorney-General? Are all the corporations of the country to be placed under the absolute domination of the Department of Justice with the sole right to determine their fate?

The same objection applies with added force to Section 12. It should be the province of the Trade Commission, and of the Interstate Commerce Commission in the case of railroads, to perform for the Courts the burden of framing Plans of Segregation and Readjustment of unlawful combinations, subject to the approval of the Court, and to retain jurisdiction, under the direction

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of the Court, of all corporations that have been thus segregated, *so as to see to the proper enforcement of the decree.* Until we have such a body, charged with that duty, there will be no such thing as an effective dissolution of unlawful combinations. This Bill refrains from granting that much-needed power and contents itself with granting to the Court the power to

> at any time during the progress of the case refer to the Commission any question arising *in the litigation* or any *proposed* decree therein.

Whereupon the Commission is to investigate the questions referred to it and report to the Court. The authority here is confined to assisting the Court *during the progress* of the litigation. There is a significant absence of power to look after *the execution of the decree,* which is above all others the power most needed. The Bill should require that the *execution* of these decrees be delegated to the Commission charged with the duty to see to their continued performance, subject always to the direction of the Court, and that application may be made from time to time by the Commission to the Court, at the foot of the decree, for the purpose of enforcing effective disintegration.

As before stated, the Commission should also have intrusted to it the authority to permit corporations to hold the stock of other non-competing corporations under prescribed rules, and to prevent interlocking control of potentially competing corporations through stockholdings, dummy directors, and other devices.

Railroad Bonds and Stock Issues. The necessity for the control of these issues by the Interstate Commerce Commission, which was made apparent by the testimony taken by the Pujo Committee, is now generally recognized. If it can be made exclusive by depriving the States of further supervision that would conflict with the work of the Federal Commission on that subject, it would be a relief to the corporations to which they are justly entitled.

In connection with this legislation there should, however, be provisions (*a*) forbidding fiscal agencies, (*b*) forbidding interstate corporations from depositing their funds with private bankers, who are subject to no inspection and required to keep no reserves against their deposits, and (*c*) requiring that all supplies and equipment be purchased by public competitive bidding in like manner as municipalities and States are now required to make their purchases. The

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last requirement would minimize the importance of the provision of the Interlocking Directorate Bill prohibiting dealers in equipment and supplies from being Directors of railroad corporations.

Another and perhaps the most important of all the subjects respecting the railroads with which this Bill should deal is that affecting the reorganization of insolvent railroad corporations. They should be placed under the jurisdiction of the Interstate Commerce Commission from the inception of the proceedings. The continuance of the existing scandals in the appointment of receivers of railroad corporations should be rendered hereafter impossible. The appointment by the Courts as receivers of the men under whose management the properties have been brought to the state of insolvency, and without notice to any of the security-holders, as is now the custom, should be ended. The Commission should have notice of every application, and through it the security-holders would find their protection, both at the inception of the litigation and in the formulation of the Plan of Reorganization, which should be required to meet with its approval and be subject to review by the Courts. This would conform the procedure to some extent to that in other countries. With us the reorganization is purely extra-judicial, which it ought not to be. Security-holders are now virtually forced into any plan approved by the bankers, no matter how oppressive.

It is improbable that the Bills will pass in their present ineffective form. It is not claimed that their enactment, amended as suggested, will bring the millennium in corporate management. Much will yet remain to be done in the way of legislation, such as (1) to protect the minority and give them representation, (2) to correct the abuses that are now made possible through the use by the "insiders" of the machinery of the Stock Exchange, and (3) the prevention of National Banks from acting as promoters, underwriters, and issuing houses for securities, and of their officers and directors from exploiting their companies.

All these reforms are bound to come in time. These Bills, properly amended, will take us a long way toward our goal. Let us get what we can, but take what we can get, after making our fight for something substantial, trusting to the future and the awakened conscience of the people for the rest.

SAMUEL UNTERMYER.

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COASTWISE TOLL EXEMPTION, TRADE DISCRIMINATION, AND POSSIBLE EVASION OF LAW

BY EMORY R. JOHNSON

IT is assumed by those who favor the policy of exemption from the payment of Panama tolls of the men and companies who own the ships that serve the coastwise trade, that this exemption can be no discrimination against the owners and users of ships under foreign flags, because only vessels of American ownership and enrolment can carry goods from one port of the United States to another. Will the exemption from Panama tolls of ships owned by citizens of the United States, or, more accurately speaking, by the coastwise steamship corporations chartered under the laws of some one of the States of the United States, work a discrimination against "the citizens or subjects" of any nation?

The four specific questions involved are: Does Panama toll exemption for the owners of ships serving the trade between the *two seaboards of the United States*, and toll payment by the owners of ships serving the trade between the *two seaboards of Canada and Mexico*, discriminate against any "nation or its citizens or subjects"?

Does toll exemption for the owners of ships serving *the trade between the eastern seaboard of the United States and our west coast*, and toll payment by the owners of ships serving *the trade between European* countries and the west coast of the United States, result in "no discrimination against any such nation or its citizens or subjects in respect of the conditions or charges of traffic or otherwise"?

Does Panama toll exemption for the owners of ships taking goods *from New York* to San Francisco or to Seattle for reconsignment and export thence *to the Orient*, and the

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payment of tolls by the owners of ships serving the trade *from Europe to the Orient,* discriminate against the citizens or subjects of European countries?

Does Panama toll exemption for the owners of ships carrying from Seattle or San Francisco to New York *goods that have been brought to the west coast of the United States from the Orient,* and the payment of tolls by vessels carrying *goods directly from the Orient and Australia to New York* discriminate against the foreign carriers and merchants?

The mere statement of these questions suggests affirmative answers. It will be well to inquire whether the questions represent merely theoretical possibilities or practical probabilities—to examine the trade referred to in these questions, to see whether the competition between those who pay tolls and those who do not will result in discrimination. The following illustrations are intended to be merely illustrative and not to include all phases of trade.

Lumber and fish are now shipped from British Columbia and from Washington and Oregon to the eastern seaboard of the United States. After the canal is opened the trade will be large and the competition between American and Canadian traders will be active. Canadian producers will be served by, or (particularly in lumber shipments) will use, vessels that pay tolls; while American traders will ship by vessels that do not pay canal charges. In so far as goods are shipped by vessels that are chartered by the traders and producers, the costs of securing transportation to the eastern seaboard of the United States *via* the Panama Canal will be affected by the payment, or exemption from payment, of tolls; and the Canadian citizens will suffer a discrimination "in respect of the conditions or charges of traffic."

The steel required in the western part of the United States for the erection of buildings and the construction of bridges, railroads, and irrigation works can be shipped by the United States Steel Corporation, the Bethlehem Steel Company, the American Bridge Company, the Maryland Steel Works, and other American corporations in chartered vessels—of course under the American flag—that will not be required to pay tolls at Panama; while the British, German, Belgian, and other possible European producers of steel in order to get their goods to the western part of the United States in competition with American producers will be obliged to employ

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ships subject to Panama Canal tolls. It is certain "that the citizens or subjects" of European countries will feel that the payment of tolls by them and the non-payment of such charges by their American competitors establishes a discrimination "in respect of the conditions or charges of traffic."

At the present time a considerable volume of trade originating in the southeastern and eastern parts of the United States is carried by rail to the west coast of the United States and exported thence to the Orient and Australasia. Some of this export traffic is now also carried by way of the Isthmus of Tehuantepec and the Isthmus of Panama. After the canal is opened a much-increased volume of shipments from the southeastern and eastern sections of the United States will be taken from the Atlantic and Gulf ports of the United States by all-water routes *via* the Panama Canal to trans-Pacific countries. It is possible that a greater or less share of these shipments will be consigned by the merchants at our Atlantic and Gulf ports to American merchants in San Francisco and other west-coast ports, and the shipments between the two seaboards may be by coastwise steamers whose owners are exempted from the payment of canal tolls. When the goods reach the west coast of the United States they, together with goods that have been brought to those ports by rail, will be reconsigned to their foreign destination in the Orient and Australasia. Shipments from our eastern seaboard to the Orient by way of west-coast ports will not be roundabout or indirect, because San Francisco and Puget Sound ports lie close to the short route from the canal to Japan, China, and the Philippines.

If goods are shipped from New York to the Orient without being consigned to a west-coast American port, the vessels transporting the goods, whether the vessels be owned by Americans or by foreigners, will have to pay canal tolls. Foreign-owned vessels engaged in our foreign trade from the eastern seaboard of the United States to trans-Pacific countries will have to pay tolls; whereas the owners of the vessels which carry similar goods from our eastern to our western seaboard for reconsignment at a west-coast American port to a foreign destination will avoid the payment of tolls. Thus, in competing for the same trade the owners of American ships will have an advantage which the owners of foreign vessels will be denied.

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Goods shipped from an eastern port of the United States, such as New York, to San Francisco or Seattle for reconsignment to the Orient will have to be transferred from one ship to another at the west-coast port unless the ship after reaching San Francisco or Seattle should be despatched to the Orient, as it can be if it is a vessel registered for the foreign trade. The fact that it is a vessel registered for the foreign trade would not prevent its being used in the coastwise trade between our two seaboards. If an American vessel presents itself at the canal with a clearance from New York to San Francisco and has aboard it only goods shipped from New York to other American ports, the vessel would presumably pass through the canal toll free. If the same vessel, together with its cargo, was later despatched from San Francisco to the Orient, no penalty would be incurred. The Panama Canal Act exempting coastwise shipping from the payment of tolls would not have been violated, but it would have been evaded. If the goods taken by the coastwise vessel from New York to San Francisco were unloaded and taken thence to the Orient by another vessel, the Panama Canal Act would be neither violated nor evaded, and yet trade between New York and the Orient would have been carried by vessels exempted from the payment of tolls.

Whether trade between the eastern part of the United States and the Orient will be carried on by way of some west-coast American port or directly without reconsignment *en route* will, if the goods are transferred at the port of reconsignment, depend upon the cost of such transfer as compared with the amount of tolls payable at Panama. If goods are not rehandled at the western port of reconsignment, the choice between lines operated directly from the eastern seaboard of the United States to the Orient and vessels operated *via* our west-coast ports will depend upon the relative facilities and rates *via* the alternative routes. Vessels owned by foreign citizens can participate only in the service of transportation by direct routes. They will have tolls to pay. Vessels owned by American citizens may engage in the service *via* the port of transhipment, and no tolls will have to be paid.

For the commerce with the Orient and Australia there is now active competition between the eastern part of the United States and Europe. American producers and merchants are constantly bidding against British manufac-

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turers and traders for the Oriental and Australasian trade. The Oriental commerce is now handled almost entirely by way of the Suez Canal. The Australian shipments are more largely by way of the Cape of Good Hope. A part of the trade of the eastern seaboard of the United States with the Orient is now carried on by way of Great Britain and Germany, between which countries and the Orient there is a larger volume of shipping than there is between our eastern seaboard and trans-Pacific countries. With the opening of the Panama Canal, it is not probable that much, if any, of the commerce of the United States with countries beyond the Pacific will be handled by way of Europe. On the contrary, there are reasons for believing that it will be economical to send goods from Europe to New York for transhipment to the Orient, and that New York will become a depot for the handling of European-Oriental trade such as London and Hamburg are now for a part of the commerce of the United States with the Orient.

Freight-rates westbound across the north Atlantic are low, because a much larger tonnage moves in the opposite direction. Our exports to Europe are heavier and bulkier than our imports, and vessels are glad to take traffic from Europe to the United States at relatively low rates. After the Panama Canal is opened there will be a large tonnage of shipping serving the trade between our eastern and western seaboards, and facilities will presumably exist for frequent and economical shipment from New York and other eastern American ports to the west coast of the United States. European goods, both non-dutiable and dutiable, can be entered at New York, and shipped by a toll-free coastwise vessel to a merchant in San Francisco. It may be found profitable to enter non-dutiable European goods at New York, then ship them to some merchant on our west coast for reconsignment or reshipment to the Orient. It will apparently be possible to make this reconsignment without transfer or handling of the cargo at the west-coast port.

Similarly, goods from the Orient to New York can be entered at San Francisco or some other west-coast port and then be put aboard a ship owned by one of the coastwise carriers and sent on to New York or some other eastern port of the United States. Undoubtedly a good deal of the traffic from the Orient to the eastern United States will be transhipped at San Francisco, because there will be lines across

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the north Pacific not having services through the canal to the Atlantic ports. The goods brought to the west coast from the Orient will be brought eastward to the central and eastern sections of the United States, partly by railroad lines and partly by coastwise steamship lines. Citizens of foreign countries operating ships serving the trade from the Orient directly to the eastern seaboard of the United States in competition with the ships serving the trade carried by way of west-coast ports will have Panama Canal tolls to pay, whereas their competitors will be relieved from those tolls.

The four discriminations thus far referred to are specific and connected with the trade between particular sections. A broader question of discrimination was raised by the British Government in the note of protest which it submitted to this Government the 14th of November, 1912. In that note Sir Edward Grey refers to the stipulation in the Hay-Pauncefote Treaty that the conditions and charges of traffic through the Panama Canal "shall be just and equitable," and he states that

> unless the whole volume of shipping which passes through the canal . . . is taken into account, there are no means of determining whether the tolls chargeable upon a vessel represent that vessel's fair proportion of the current expenditure properly chargeable against the canal—that is to say, interest on the capital expended in construction and the cost of operation and maintenance.

It is also contended by Sir Edward Grey that

> any system by which particular vessels or classes of vessels were exempted from the payment of tolls would not comply with the stipulations of the Treaty that the canal should be open on terms of entire equality and that the charges should be just and equitable.

Will or will not the exemption of the ships owned by the American coastwise steamship corporations increase the tolls to be paid by ships owned by citizens or subjects of foreign countries? Tolls are to be levied and collected at Panama presumably to pay the expenses for running and maintaining the canal and for meeting the interest charges on the funds invested in the canal; and it is to be expected that it will be the policy of the United States to make the canal commercially self-supporting, if the traffic is large enough to secure the requisite revenues without unduly restricting the usefulness of the waterway. It will not be the policy of the United States to obtain profits in excess of the

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revenues required to meet operating, maintenance, interest, and amortization charges; but, if the traffic proves to be as large as it seems probable that it will be, the policy of the United States will doubtless be to have the canal carry itself commercially—to limit the canal expenses borne by the general taxpayers of the United States to the military and naval outlays required for the defense of the canal and for the maintenance, at the isthmus, of forts and naval bases.

If it shall be, as it ought to be, the policy of the Government to make the canal commercially self-supporting, it is obvious that the rate of tolls imposed must be affected by the tonnage upon which the charges are levied; and that, if the toll-bearing tonnage is reduced by the exemption of the large volume of shipping owned by the individuals and corporations engaged in the coastwise trade, the rate of charges payable by the owners of American ships in the foreign trade and by the citizens owning vessels under foreign flags must be higher than the rate would be if all vessels using the canal were required to pay tolls.

Another fact to be borne in mind is that the toll-exemption clause of the Panama Canal Act will not only discriminate against the trade and shipping in which citizens or subjects of other countries are interested; it will also place a handicap upon a part of our own trade. Most of the trade of Central America and much of the commerce of Mexico is handled through the west-coast ports of those countries. After the canal is opened there will be a large volume of shipping moving between the two seaboards of the United States directly past west-coast Central American and Mexican ports. Those countries are close to the United States. Their exports are needed in our country. Our industries should supply Central America and Mexico with imports. If our ships engaged in trade between the two seaboards of the United States are permitted to stop *en route* at Central American and Mexican ports to discharge and take on cargo, it may be possible to transfer the trade of those countries from British, German, and other European traders to American merchants and to give ships owned by the citizens of the United States the traffic which is now, and under the terms of the Panama Canal Act must continue to be, handled mainly by ships owned by foreign citizens.

The partial statement here made of the handicap that will be placed upon the " citizens or subjects " of other nations

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who own ships that serve our foreign trade and the commerce of foreign nations with one another, by exempting from Panama tolls the individuals and corporations owning or chartering vessels that carry our domestic products and our imported goods between our Atlantic and Pacific seaboards, goes far to explain why there was such earnest advocacy of the policy of exempting from toll payments the individuals who own coastwise ships, the large shippers and traders who charter vessels, and the corporations who operate steamship lines. The discrimination in favor of certain classes of American traders, in favor of the producers whose output is large enough to enable them to ship their products in full-vessel cargoes, and in favor of the corporations owning the coastwise steamship lines, is real, and naturally is desired by the prospective beneficiaries.

The coastwise toll-exemption clause of the Panama Canal Act grants an unjustifiable subsidy. The taxpayers of the country who have paid for the Panama Canal are entitled to receive reasonable tolls from the individuals and corporations who use the canal and derive profit therefrom. When the general public clearly understands what is involved in exempting the owners and charterers of coastwise ships from toll payments, it seems certain that the Canal Act of August 24, 1912, must be amended by striking out the toll-exemption clause.

EMORY R. JOHNSON.

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AMERICAN RAILWAYS JUSTIFIED BY RESULTS

BY SLASON THOMPSON

Ye shall know them by their fruits. Do men gather grapes of thorns, or figs of thistles?—MATTHEW vii. 16.

WHILE nothing in this world, except misrepresenting the facts respecting American railways, is quite so easy as lying, that is no reason why the truth about them should be befogged through such a medium of intelligent criticism as THE NORTH AMERICAN REVIEW. If Professor W. Jett Lauck's comprehensive and seemingly fair treatment of "The Plight of the Railways" in its January issue had appeared in one of our magazines that cater to the prejudices of the ignorant, it would have excited only surprise by its moderation. But for the readers of the REVIEW, something more than a superficial familiarity with a subject which the editor truly says is "undoubtedly the most vital practical problem now pressing for resolution" would seem to be a first requisite.

Therefore, calling in such Knowledge as is buttressed by facts, Reason, Truth, and Freedom from undue bias, let us consider the state of American railways.

To begin with, let us frankly acknowledge that they are what they are because they are American-bone of our bone, sinew of our sinew. American railways were originally built on faith and financed on optimism out of the coffers of foreign money-lenders, many of whom have never realized on their investments. In 1850, when the railway mileage in the United States was less than 10,000 miles, the wealth of the country was officially estimated at a little over seven billions ($7,135,780,000); now, with 250,000 miles of railway, the last official estimate places the wealth at over $125,000,000,000.

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It is impossible to say how much of this bewildering increase is due to the railways, just as it is impossible to imagine any such enormous expansion of national wealth without those railways. To the remotest confines of this Republic they have been the heralds of the dawn of progress and prosperity. Within our generation, or, to be more specific, since 1870, we have seen Oklahoma converted from a trackless buffalo range into a thriving commonwealth by the building of 6,100 miles of railway, mostly on borrowed capital. Oklahoma furnished the opportunity, the railways did the rest.

Throughout the history of American railways what is now called "stock watering" was as necessary and legitimate as rain in Kansas. Every railway extension, except those between thickly settled communities, was a venture into the unknown. Paid-up stock was issued at 25, 50, or 75 cents on the dollar, according as the risk was slight or great. The risk was always present, the uncertainty being as to the extent of the risk and the promise of profit. Even bonds bearing from six to eight per cent. had to be garnished with stock bonuses to command their face value. Backed by all the inducements that selfish promoters and far-sighted projectors could offer, the financing and building of American railways has been one continuous hard scrabble, with few intermissions of easy money and years of undiluted prosperity.

In his article in the January REVIEW, Professor Lauck seeks to differentiate between the operating and financial record of the railways, as though the two were not so inextricably commingled as to defy such separation. The two have gone along hand in hand for over eighty years, and nothing short of government ownership can divorce them. He declares that "an economic crime has been perpetrated by the capitalization of the actual and potential earnings arising from increased productive efficiency." This characterization is not original with Professor Lauck. It has been declared in the lecture-rooms of most of our colleges, and the economic theory of which it is the antithesis has been accepted with disastrous consequences in Europe, finding its most glorious exemplification in the $277,000 per mile capitalization of British railways.

It is pertinent to inquire, since when has it become an economic or any other sort of a crime to capitalize "in-

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creased productive efficiency "? It is not only not a crime, but one of the first and most essential laws of human progress. What Professor Lauck denominates an "economic crime" is nothing other than the American railway practice of "one dollar for dividends and one dollar for improvements" out of earnings. Frequently with no dollar for dividends there has been the dollar or some part of it for improvements. At every stage in the development of our railways this has been the practice, that through good and bad times has kept American railways abreast of the exacting demands made upon them by the American people. The practical effect of this "economic crime" may be graphically illustrated in the following comparison with the per-mile capitalization in the countries that have followed the opposite policy:

	Capital or cost per mile.
UNITED STATES	$64,000
Russian Empire	80,902
German Empire	115,000
Switzerland	117,000
Austria	118,000
Italy	127,000
France	144,000
Belgium	188,000
United Kingdom	**277,345**

Moreover, this "economic crime" that has given us the lowest average capitalized railways in the world, with a carrying capacity greater than all the railways of Europe combined, has been perpetrated with labor costing from two to three times as much as that in any other country named.

In the realm of enlightened reason any such achievement would seem entitled to recognition as an economic triumph or miracle.

Nor let any one suppose that this economic marvel has been achieved at the expense of exorbitant rates to the American people. The railway projectors and builders found travelers in the Eastern States paying *six cents a mile* by stage. By 1869 the New York Central was carrying them at 2.031 cents per mile, and last year it carried 48,018,008 passengers, an average of 36.67 miles, at an average cost of 1.764 cents per mile.

Before the age of railways it cost the American farmer twenty-five cents or more to move a ton of freight one mile.

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The first charter to a railway in Pennsylvania in 1823 provided for a seven-cent rate per ton mile. By 1869 the New York Central was carrying freight at 2.527 cents per ton mile. Last year it carried 46,803,761 tons, an average of 199.96 miles, at an average cost of 6.28 *mills* per mile.

These figures are particularly pertinent and illuminating in connection with Professor Lauck's citation of a statement before the Interstate Commerce Commission "that a total of $93,034,026 of stock had been floated by this company [presumably the New York Central] during the period 1870–1910, for which not a cent was added to the value or earning capacity of the property."

Not a cent added to the value or earning capacity of the New York Central in forty years! It is evident that Professor Lauck has not the faintest conception of the process by which the New York Central has been evolved from the seven independent companies between Albany and Niagara Falls organized, under the title of the New York Central Railroad Company in 1853, into one of the great systems of the United States. As the bald statement to which he has fallen an innocent victim has doubtless been accepted as true by thousands to whom the data for its refutation is not accessible, the facts may be briefly summarized from official and quasi-official sources:

Prior to 1869 the New York Central and the Hudson River Railroad were separate properties connecting at Albany and forming a continuous route to Buffalo. In 1861 they operated 804 miles of line, of which 700 miles was owned and 104 was leased. Including auxiliary track and siding, they had a total of 1,298 miles of all tracks, 276 locomotives, 358 passenger-cars, and 3,412 freight-cars. Their combined capitalization amounted to $51,501,471, of which $27,751,466 was stock, and $23,750,005 was funded debt. Between 1861 and 1870 the annual surpluses after paying interest and dividends amounted to over $29,000,000. At the time of the consolidation in 1869 the capital stock was increased to $89,428,330, and the funded debt was reduced to $13,681,807, making a total of $103,110,137. It was this transaction in which stock in the new company was issued to take up $23,000,000 outstanding certificates and also the certificates issued to the stockholders of the two merged companies under the terms of the consolidation act, that has been referred to as "a stock dividend of one hundred per

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cent., equal to $44,428,330." It is doubtful if it more than capitalized the sum of the expenditures out of operating expenses and net income for improvements and betterments upon the various properties during the forty years preceding their final consolidation.

This brings us to 1870—the beginning of that "period 1870–1910" when, according to Professor Lauck's citation, "$93,034,026 of stock was floated by this company, for which not a cent was added to the value or earning capacity of the property." Happily from this point the facts are easily ascertainable and they can be summarized so as to tell their own story. Here they are:

THE NEW YORK CENTRAL IN 1870 AND 1910.

	1870		1910
Mileage—owned	737.7		805.4
" leased	104.4		2,782.3
Total operated miles	842.1		3,587.7
All tracks (miles)	1,522.0	(1)	8,643.0
Locomotives	400		2,323
Passenger-cars	445		2,390
Freight-cars	9,026		69,713
Cost of road	$48,130,461		$167,635,345
Cost of equipment	11,635,222		84,220,702
Undistributed			384,208
Total	$59,765,683		$252,240,255
Capital stock	$89,428,330		$222,729,300
Funded and secured debt	13,681,807		268,592,426
Total	$103,110,137		$491,321,726
Deduct—			
Book value system securities			$134,670,396
Other permanent investments			7,875,253
Working assets		(2)	89,556,046
All other deferred debts			51,725,570
Total deductions (assets)			$283,827,265
Net capital charge against property	$103,110,137		$207,494,462
Working and accrued liabilities			29,204,990
Total net capital and liabilities			$236,699,452

(1) Of these tracks 3,029 miles were owned and 5,614 were leased.

(2) The details for this item were not reported to the Commission in 1910. In 1911 they were cash, $20,708,255; securities issued or assumed, $10,745; marketable securities, $28,197,330; accounts receivable, $40,590,287; materials and supplies, $10,015,887. Total, $99,522,504.

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It is evident from this statement that the New York Central has more than sufficient property to represent every cent of capital stock issued either before or since 1870. The appraisal of its 3,029 miles of track and terminal properties and leased mileage is impracticable, but from the known cost of locomotives ($15,000 to $40,000 each), passenger-cars ($8,000 to $10,000), and freight-cars ($800 to $1,200), the $84,220,702 reported as cost of equipment is probably far below its actual cost.

So much for the value of the property. Now as to its earning capacity. This is shown in the following statement of performance:

PUBLIC SERVICE OF THE NEW YORK CENTRAL IN 1870 AND 1910

	1870	1910
Passengers carried	7,044,946	46,887,133
" " (one mile)	321,365,953	1,708,285,825
Average journey	45.3 miles	36.43 miles
Passenger revenue	$6,738,592	$29,727,748
Average receipts per passenger mile	2.097 cts.	1.740 cts.
Freight tons carried	4,122,000	46,642,539
" " (one mile)	769,087,777	9,103,015,567
Average haul	186 miles	195 miles
Freight revenue	$14,489,216	$56,871,058
Average receipts per ton mile	1.884 cts.	6.25 mills

Here is a record of earning capacity achieved by the combination of financial ability and operating efficiency that might challenge credibility were the facts not accessible. With an increase of only 327 per cent. in the investment accompanied by an increase of only 130 per cent. in capital liability pertaining to this property, there is shown an increase of 432 per cent. in passenger traffic and over 1,085 per cent. in freight traffic. But more wonderful still is the fact that this amazing increase has been attended by a reduction of twenty per cent. in the average receipts per passenger mile, and of over sixty-six per cent. in the average receipts per ton mile.

If the average passenger fare on the New York Central at the close of the period 1870–1910 had been the same as at the beginning, the passenger revenues in 1910 would have been $35,822,000, instead of $29,727,748, as they were; and had the freight-rates been the same in 1910 as in 1870, the freight revenues in 1910 would have been $171,500,802, instead of $56,871,058, as they were.

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Thus the application of sound American financial principles and American operating efficiency to this property saved over $120,000,000 to the travelers and shippers on the New York Central in 1910, compared with what they would have had to pay under the transportation conditions of 1870.

And this marvel has been accomplished in the face of advancing cost in everything entering into production of transportation.

In 1870 the New York Central paid $168,975 taxes on its earnings; in 1910 its tax bill was $4,526,555, or more than two-thirds as much as its entire passenger revenues in 1870. This tax alone is a convincing certificate that the property of the New York Central is approximately worth $450,000,000. Its system subsidiaries, the Lake Shore and the Michigan Central (not included in the preceding statements) together in 1910 paid $2,738,436 taxes. Thus the three corporations represent a taxable valuation of over $725,000,000, on the theory that property is taxed one per cent. on its full value as is the case in New York State.

I have gone into these details of the New York Central because they are typical of the financial process and progress that has given to the United States the lowest railway capitalization and freight-rates in the world. This story could be duplicated with a dozen others of the leading systems. Even where the results have not been so fortunate, the American system of turning back a substantial percentage of income into the property has been of inestimable national advantage in maintaining transportation abreast of traffic demands without increasing capital charges. In disapproving of this policy Professor Lauck allies himself with the British and Continental theorists against such recognized railway economists as W. M. Acworth and C. Colson, the highest British and French authorities.

The wisdom of this practice was also recognized by Professor Henry C. Adams, formerly Statistician to the Interstate Commerce Commission in his report for 1901, when, in discussing the extraordinary percentages devoted to maintenance of way and equipment that year, he said:

> The important fact to be read from these comparisons is that the railways of this country are making use of these years of prosperity so to perfect their roadway and equipment as to enable them to decrease this class of expenditures should business of the country be again subjected to

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general depression. This use of money creates for the railways an available reserve against hard times as truly as though it existed in the form of cash or in profitable investments.

Professor Lauck is singularly unfortunate when he turns his attention to the capital obligations of the railways as a whole. Here what is doubtless a printer's slip makes him say that "during the decade 1901–1910 the total capitalization of the railways of the United States was increased $7,728,000,000 or 57.6." This is only a billion more than the official figures show. For the years in question these were:

	Gross Ry. Capital
1910	$18,417,132,238
1901	11,688,147,091
Increase	$6,728,985,147

As a matter of fact this covers only nine years, and not a decade. The percentage, however, is correct, although the whole intention is wrong and misleading. The actual capitalization of the railways outstanding in the hands of the public in 1910 upon which they were entitled to earn a reasonable return was only $4,790,591,329 more than in 1900, as the following official figures show:

	Net Railway Capital
1910	$14,338,575,940
1900	9,547,984,611
Increase in decade	$4,790,591,329

In the meantime railway mileage had increased from 192,941 to 240,438, or 47,497 miles, and all tracks increased from 258,784 to 342,351, or 83,567 miles. The net result of this increase of capital is shown in an increase from $36,904 per mile of track in 1900 to $41,888 in 1910. The difference between these sums is represented in the millions expended on locomotives, which during the decade increased over one hundred per cent. in weight; in freight-cars which increased ninety per cent. in capacity; in more costly passenger and postal cars; in heavier rails, stronger bridges, better ballast, elevated tracks, abolition of grade crossings, installation of 60,000 miles of block signals, the electrification of terminals, and the replacing of outgrown stations with expensive modern structures throughout the republic. None of these things add to the physical mileage of the railways, but dur-

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ing the decade in question they necessitated the expenditure of billions of capital either borrowed or appropriated out of surplus income.

That this expenditure was urgent and unavoidable is proved by the fact that during the same decade passenger traffic increased over one hundred per cent. and freight traffic over eighty per cent. By 1907 the facilities of the railways had been overtaken by the traffic, and only the recession in business since has enabled them to meet the pressing transportation requirements of the American people.

But Professor Lauck is not satisfied with overstating the capitalization of the railways; he reiterates the exploded misstatement about excessive dividends. These, he says, were $159,000,000 greater in 1910 than in 1900, and that the dividends paid during the past fiscal year exceeded $400,000,000. The reports of the Interstate Commerce Commission show that the net dividends paid in 1910 were only $293,836,863 against $118,624,409 paid in 1900, an increase of $175,212,454. But the same authority shows that $86,465,005 of this increase was "declared out of surplus." This reduced the net dividends from current income, plus $78,442,027 "clear income from investments," to $207,371,858. As for the statement that over $400,000,000 was paid in dividends during the past fiscal year, this rests on the official preliminary abstract of statistics for the year to June, 1912, in which it is stated that "the amount of dividends declared during the year (by both operating and non-operating companies) was $400,432,752." In the condensed income account accompanying this abstract, which presumably Professor Lauck did not study, it appears that this lump sum was made up as follows:

OPERATING COMPANIES	
Dividends declared from current income	$246,372,011
" " " surplus	100,433,571
NON-OPERATING COMPANIES	
Dividends declared from current income	37,556,473
" " " surplus	15,486,374
Total	$399,848,429

Dividends of non-operating roads are paid out of rentals received from operating roads.

The slight variance between the text and the table is probably due to rectification in one and not the other in

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preparation for the press. But in neither is there any intimation of the deduction for the "dividends receivable by railways from railway stock owned or controlled," as was done in 1910 when it amounted to $111,828,500. As this other income amounted to $262,107,369 in 1912 against $252,219,946, the deduction on this account undoubtedly should be larger last year than for 1910. So from this source (say $112,000,000) and from surplus as above, we have a total of $227,919,945 that did not come out of operating income at all to be deducted from the duplicated dividend figures of Professor Lauck's analysis. It is passing strange that statements that melt in the face of elementary school arithmetic continue to be paraded in official abstracts before the wondering eyes of the American people.

Nor is Professor Lauck much happier when he takes up the relation of railway wages to railway revenues. He says that during the decade 1901–1911 "the proportion of operating revenues paid to labor actually engaged in conducting transportation—enginemen, trainmen, switchmen, and stationmen—has generally *tended to decrease.*" Let us see what are the facts. The reports of the Interstate Commerce Commission afford these comparisons:

COMPENSATION PAID LABOR ACTUALLY ENGAGED IN CONDUCTING TRANSPORTATION 1901 AND 1911

	Pay in 1901 (Thousands)	Pay in 1911 (Thousands)
Station Agents	$19,239	$27,203
Other Station men	47,496	88,926
Enginemen	53,353	91,323
Firemen	30,941	55,626
Conductors	32,352	59,716
Other trainmen	51,646	109,664
Telegrah operators and despatchers	17,152	32,348
	$252,179	$464,806
Proportion of operating revenues	15.88	16.66

Had the employees of switching and terminal companies been included in 1911, as in 1901, the proportion of the pay of these seven classes to revenues would have been over seventeen per cent. In 1912, when the increase of pay made in 1910 was in full effect, the compensation of these seven classes rose to $516,892,000, or 18.42 per cent. of the gross revenues—an increase of sixteen per cent. over the proportion in 1901. None of these comparisons include the recent

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advances in the scale of employees directly engaged in conducting transportation.

In another paragraph Professor Lauck finds, as he says, that though revenue train mile costs have increased, this is more than offset by heavier trains and other economies, and in support of this he cites that whereas the operated-train cost in 1901 was $1.12 compared to $1.72 of operating revenue, in 1912 the figures were $1.59 and $2.30 respectively. From this he concludes that the gain in gross was sufficient to produce "an increase in net revenue of ten cents per revenue train mile." But between 1901 and 1912 taxes increased from 5.5 cents to 9.8 cents per train mile, reducing the apparent increase of 10 cents to 5.7 cents. Back of the increased performance per train mile is the increase of $5,526,058,388 in net investment between 1901 and 1911 (official figures for 1912 not yet available). Computed on a five-per-cent. interest basis, this would figure out a deficit for 1912. Therefore, in the following statement the return on capital for both years is computed on a four-per-cent. basis:

RAILWAY REVENUE AND EXPENSE PER REVENUE TRAIN MILE

	1900		1912	
Operating revenues		$1.72.9		$2.30.2
Operating expenses	$1.12.2		$1.59.5	
Taxes	05.5		09.8	
Interest on net capital @ 4%	41.2	1.59.0	.49.2	2.18.5
Net revenue		.13.9		.11.7
Net revenue per train mile 1912 less than 1900				.2.2

Now 2.2 cents per revenue train mile represents over $27,000,000. It is common knowledge that money for railway investment commands over one-half per cent. more now than it did in 1900, and is being borrowed at five and six per cent. Even at half of one per cent. this would raise the per train mile cost by 6.1 cents, or over $73,000,000. Deducted from the 11.7 cents margin, it would leave only 5.6 cents, or $68,768,000 margin for additions and betterments, other reserves and surplus. If Professor Lauck thinks that this is a sufficient or safe working balance on a business of over $3,000,000,000 annually, he will find few practical financiers to agree with him.

It is impossible to follow Professor Lauck in his discussion of what the railways have lost in underwriting commissions, or "might have saved" had they "sold their bonds

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in the open market." With most of the companies it has been a case of "woodchuck or no meat." It is a sounder proposition to pay $40,000,000 for floating $810,000,000 four-and-one-half per cent. twenty-year bonds at ninety-seven per cent. than to sell the same quantity of five-per-cent. twenty-year bonds in the open at par, or even 102. In the markets of the world borrowers seldom make their own terms, and it has been more than half a decade since the railways have been able to place loans to advantage. The hundreds of millions of short-term notes outstanding is significant of their sore plight in this respect. On January 14th, Cook County, one of the wealthiest municipalities in the world, was greatly elated to place in open competition $1,000,000 four-per-cent. bonds at $985,110.

To one sentence in Professor Lauck's article I am sure no reasonable man will take exception. "Due profits and liberal returns," says he, "should be assured to the elements of risk and foresight in the development of transportation facilities." If they are not, the industry upon which all other industries depend will languish and decay, and the broken reed upon which all industries and commerce lean so heavily will pierce the hand of misinformed confidence.

SLASON THOMPSON.

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THE TREATY-MAKING POWER UNDER THE CONSTITUTION OF THE UNITED STATES

BY HENRY ST. GEORGE TUCKER

THE recent action of the State of California in passing an act prohibiting aliens ineligible to citizenship in the United States from holding land in that State has produced wide discussion, and brings us face to face with the question whether a treaty between the United States and any foreign country which guarantees to the inhabitants of such country the right to hold land within the bounds of the United States is a constitutional treaty and valid, as against the law of a State of the Union prohibiting such holding by such foreigners. No question of more far-reaching effect than this has arisen in our political history within the past few years.

The advocates of the affirmative of this proposition for the most part rest their conclusion upon the fact that the Constitution of the United States in words declares that the treaty is the supreme law of the land; and it is also urged, the treaty being an exercise of national power upon subjects which can be treated of by the Federal Government alone, affecting all the citizens of each country bound by the treaty, that to permit the people of one State, which may be the smallest State in the Union, by its independent and antagonistic action, to defeat a treaty whose beneficent effects are intended to reach all the people of the United States should not be allowed from the standpoint of justice to the great body of the people of America. The argument *ab in-convenienti* is persuasive and often effective, but cannot be admitted in the consideration of constitutional rights. If such power exists in the State of California, and is an evil, it should be changed; but let us not be misled into under-

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taking by indirection what should be met frankly and by constitutional means. We can well afford to follow Washington and Lincoln on this subject. The former said:

> If, in the opinion of the people, the distribution of the constitutional powers be in any particular wrong, let it be corrected in the way which the Constitution designates. But let there be no change by usurpation, for this, though it may in one instance be the instrument of good, is the ordinary weapon by which free governments are destroyed.

Mr. Lincoln used this language:

> It is my duty and my oath to maintain inviolate the right of the States to order and control under the Constitution their own affairs by their own judgment exclusively. Such maintenance is essential for the preservation of that balance of power on which our institutions rest.

Article Six, Section Two, of the Constitution of the United States is as follows:

> This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

It will be noticed in this section that not only are treaties made "under the authority of the United States," the supreme law of the land, but the same section also declares, "This Constitution, and the laws of the United States which shall be made in pursuance thereof," are also the supreme law of the land; that is, the Constitution, which embraces among many powers the treaty-making power, is the supreme law of the land. It is doubtful, under proper construction, whether, in order to give supremacy to the treaty-making power, it was necessary to mention it at all after proclaiming that the Constitution, which included the treaty-making power, was supreme. For does not the greater include the less? In this clause it is also noted that "this Constitution" is placed first; "the laws of the United States which shall be made in pursuance thereof," second, "and all treaties made, etc.," is placed after the other two. This clause does not single out the treaty-making power alone as supreme, but it designates two others as supreme and carefully enumerates them with the treaty-making power, and if the location of each in the sentence is to be reckoned accord-

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ing to its importance, the first two, that is, "this Constitution, and the laws made in pursuance thereof," would be prior in dignity to treaties. If the Constitution, which includes the treaty-making power as well as many others, be the supreme law of the land, as cannot be denied under this clause, is a treaty which violates the Constitution supreme? Is there anything in the clause which justifies holding a treaty supreme though clearly invading forbidden ground and denying the same to a law of Congress clearly unconstitutional? Can the Constitution be supreme when it embraces in its folds an adder whose fangs may sting it to death? Can supremacy be predicated of any instrument that contains the badges of its own subordination? Can the Constitution be supreme in every article, in every section, in its whole scope and breadth, in its varied functions, and in its enumerated powers, if one power may destroy another, or one power destroy the whole? It is clear from this section that the law of the United States to be the supreme law of the land must be made in pursuance of the Constitution; whereas no such limitation is put upon "all treaties made, or which shall be made," but there is substituted for the words "which shall be made in pursuance thereof" the words "under the authority of the United States." Are not the two phrases equivalent? If not, then a law of Congress will be unconstitutional and void because against the Constitution, and a treaty constitutional and supreme though it violates the Constitution. "Under the authority of the United States" means under the authority of the Government of the United States. The words "United States" as here used mean the Government of the United States established by the Constitution and not "the political society which lies back of that organic law and which was its author." If this be true, we must examine the Constitution in its whole scope when examining a treaty to see whether such treaty is in accordance with the Constitution; for as Judge Cooley says:

> The Constitution itself never yields to *Treaty or Enactment:* it neither changes with time, nor does it in theory bend to the force of circumstances.[1]

There are powers which the Federal and State governments may each employ, known as "concurrent" powers; and when in the use of such powers the Federal Government

[1] *Constitutional Law,* page 33.

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acts by legislation, though the State has likewise acted, the Federal power must prevail, for constitutional laws of Congress are the supreme law of the land, and the State law must yield; but not so if the law of Congress embraces a subject which is reserved to the States or forbidden to the Federal Government, for then the law of Congress is not in pursuance of the Constitution that declares,

> the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. (Tenth Amendment.)

If the treaty-making power be indeed supreme over all State laws, then a treaty containing provisions for the benefit of foreigners may create greater rights for such foreigners within a State than the citizens of the several States may have in that State. State laws prescribing conditions of suffrage, or of holding office, may be swept aside by a treaty giving such right to an alien, and permitting him to vote or hold office in any State when the citizen of a sister State would be debarred from voting or holding office in such State, though he may claim the protecting power of his own constitution in that clause which may properly be termed the clause of "American hospitality"; to wit:

> The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.[1]

The negro citizen of New York cannot, under this clause just quoted, force himself into the schools of Texas, or claim to be exempt from the law of Texas requiring him to ride in separate railroad coaches from those assigned to the whites; but if the claim of power here asserted be correct, the negro from Hayti or the Congo may under a treaty be free to enter the schools of Texas, and ride in any coach on a railroad that may suit his tastes, notwithstanding the law of Texas to the contrary. The laws of marriage and divorce, which are derived from the States alone and which are the bulwarks of our social fabric, may in like manner be abrogated in favor of aliens under the provisions of a treaty. Is a citizen of America thus to be despoiled of rights that "Aliens to the commonwealth of our Israel" may boastfully disport themselves in? Is American citizenship to be a

[1] Article Four, Section Two, Constitution United States.

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badge of inferiority, and the alien to be preferred in honor to the native-born American? If so, we may indeed repent in sackcloth and ashes that we have sold our birthright for a mess of pottage.

It will not do to say that the treaty-making power would never be used in a way to subordinate the rights of American citizens to those of aliens. The argument is complete if it is shown that such a power exists; and in the above case Texas is able to protect itself against the New York negro, but would be utterly helpless as against the foreign negro protected by the provisions of a treaty.

An examination of the sources of these powers, Federal and State, may serve to a clearer vision of the subject. By the Hamiltonian school of statesmen it is claimed that the Constitution was the product of one body politic,—the whole mass of the people of the United States, giving the Federal Government the large powers contained therein and denying certain powers to the States, as well as certain others to the Federal Government; and that this body politic, the United States, antedated the States, and in effect created them, etc., etc. The Jeffersonian school holds that the States, prior to the adoption of the Constitution, existed as independent sovereigns; that they created the Constitution by proposing it to the people of the several States, who ratified it, and that from the reservoir of their original powers they granted certain ones to the Federal Government, denied others to the States, reserving all others "to the States respectively, or to the people." While historically we hold the latter view, the adoption of either will serve our purpose in showing that the reserved rights under the Tenth Amendment, secured in either of the above-mentioned methods can no more be taken from the States than can any power granted to the Federal Government be taken from it. Under the Hamiltonian school each power, Federal and State, has a common origin and a common grantor; each is a part of the same Constitution, each is supreme in its sphere because the Constitution, which embraces both, is confessedly supreme. There is one reservoir from which flowed all powers, the people of the United States as one body politic. This same body politic delegated the enumerated powers as given in the Constitution to the various departments of the Federal Government, and then declared that all powers not delegated were reserved "to the States respectively or to the people";

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and when the Constitution was pronounced the supreme law of the land this supremacy was infused into every part of it, into every section and every paragraph of it. The supremacy of the judicial power, of the legislative power, and of the executive power in the Federal Government in their respective spheres, was complete and unchallenged; while the powers not delegated, but which were reserved "to the States respectively, or to the people," were left undisturbed by the Constitution as not needed by the Federal Government; and because the supremacy of the Constitution declared in Article Six pervades every part of it, and the Tenth Amendment is as much a part of it as Article Six, or any other section of that instrument, the reserved powers contained therein are, in their sphere, equally supreme, and subordinate to no other power in the Constitution.

By the Jeffersonian school it is held that the Constitution was proposed by the thirteen original States as independent bodies politic. Each gave up certain of its original sovereign powers to the Federal Government and for the good of all denied to the States the use of certain other powers. They gave freely of national powers, denied themselves without stint, and left in the possession of each State all other powers. They gave part and retained part. They gave up national powers and retained local powers. So that without the declared supremacy of the Constitution in Article Six these reserved powers referred to in the Tenth Amendment were supreme in their sphere. With Article Six they are doubly so.

Judge Cooley, in his work on *Constitutional Law*, page 30, strongly confirms our view:

> To ascertain whether any power assumed by the Government of the United States is rightfully assumed, the Constitution is to be examined in order to see whether expressly or by fair implication the power has been granted, and if the grant does not appear, the assumption must be held unwarranted. To ascertain whether a State rightfully exercises a power, we have only to see whether by the Constitution of the United States it is conceded to the Union, or by the Constitution of the United States, or that of the State, prohibited to be exercised at all. The presumption must be that the State rightfully does what it assumes to do until it is made to appear how, by constitutional concession, it has divested itself of the power, or by its own Constitution has, for the time, rendered the exercise unwarrantable.

To which of the governments, Federal or State, we ask, does the tenure of real estate belong? I make bold to declare

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that no reputable authority can be found denying the right of the States to control the tenure of real estate within their bounds; and without burdening this paper with authorities, I shall content myself with quoting the language of Justice Field, who delivered the opinion of the court in the case of The United States *vs.* Fox, 94 U.S. 320, as settling this question:

> The power of the State to regulate the tenure of real property within her limits, and the modes of its acquisition and transfer, and the rules of its descent, and the extent to which testamentary disposition of it may be exercised by its owners, is undoubted. It is an established principle of law, everywhere recognized, arising from the necessity of the case, that the disposition of immovable property, whether by deed, descent, or any other mode, is exclusively subject to the government within whose jurisdiction the property is situated.

And in McCormick *vs.* Sullivant, 10 Wheat, 202:

> The power of the State in this respect follows from her sovereignty within her limits, as to all matters over which jurisdiction has *not been expressly or by necessary implication transferred to* the Federal Government. The title and modes of disposition of real property within the State, whether inter vivos or testamentary, are not matters placed under the control of federal authority. Such control would be foreign to the purpose for which the Federal Government was created, and would seriously embarrass the landed interest of the States.

Judge Story, a strong advocate of the supremacy of the treaty-making power, in Section 1508 of his work, uses this language, speaking of the treaty-making power:

> But though the power is thus general and unrestricted, it is not to be so construed as to destroy *the fundamental laws of the State.* A power given by the Constitution cannot be construed to authorize a destruction of other powers given in the same instrument. It must be construed, therefore, in subordination to it; and cannot supersede or interfere with any other of its fundamental provisions. Each is equally obligatory, and of paramount authority within its scope; and no one embraces a right to annihilate any other. A treaty to change the organization of the government, or annihilate its sovereignty, to overturn its republican form, or to deprive it of its constitutional powers, would be void; because it would destroy what it was designed merely to fulfil, the will of the people (Referring in a note to Tucker, Rawle, Elliott's Debates, and Jefferson).

If, as Judge Story says, no power in this Constitution is authorized to destroy another power, what results when a treaty, exercising a supreme power, attempts to destroy a

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right which the Supreme Court, through Judge Field, has declared is a right which under the Constitution belongs exclusively to the States, and which is therefore included among those rights reserved in the tenth amendment? If my premises be correct, the conclusion is inevitable that such treaty is invalid.

While the treaty-making power seems unlimited, all of the authorities admit there are limitations to its supremacy. Pomeroy, in his work on *Constitutional Law*, one of the strongest presentations that I have seen for the supremacy of the treaty-making power (page 567), says:

> But I think it is equally certain that a treaty would be a mere nullity which should attempt to deprive Congress, or the Judiciary, or the President, of any general powers which are granted to them by the Constitution. The President cannot, by a treaty, change the form of government, or abridge the general functions created by the organic law.

Judge Cooley, in his *Principles of Constitutional Law*, page 117, says:

> The Constitution imposes no restriction upon this power, but it is subject to the implied restriction that nothing can be done under it which changes the Constitution of the country, or robs a Department of the Government or any of the States of its constitutional authority.

Judge Story, in the passage already quoted from his work, Section 1508, says:

> But though the power is thus general and unrestricted, it is not to be so construed as to destroy the fundamental laws of the State.

We could rest the case on Judge Story's statement, and why not? If, as Mr. Pomeroy says, this power cannot be used to deprive Congress, or the Judiciary, or the President, of their powers, how can it be claimed that it can deprive the States of their powers? State powers are either secured by the Constitution or they are not. If secured, in their sphere they are supreme under the Tenth Amendment; if not secured therein, they remain the original powers of sovereign States. Are State powers less protected under the Constitution than those granted to Congress, the Judiciary, and the President? In the view of the Hamiltonian school of construction, *supra*, does not the Constitution, which is supreme in its whole scope, include the reserved powers of the States as contained in the Tenth Amendment, as well as the grants to

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Congress, the Judiciary, and the President? And in the view of the Jeffersonian school of construction, *supra,* these State powers being reserved by the States and never given up, are, therefore, not brought under the cover of the Constitution, but are left in their original pristine vigor and so declared by the Constitution in the Tenth Amendment.

Supremacy admits of no limitations, exceptions, or conditions, and yet Story, Cooley, Pomeroy, and others admit that the treaty-making power is not supreme in its power to destroy the powers of Congress, the Judiciary, or the President; surely such admissions must be fatal to the general claim of supremacy. Some authorities claim that this power is supreme, but that it cannot, in the exercise of this supremacy, change the form of government or change the organization of the government, while Story, Cooley, Tucker, and others say it cannot destroy "the fundamental laws of the States." Now what is our form of government? Clearly, one which recognizes the Federal Government as the agent for all the States, for their common good, in war, in peace, in commerce, and taxation. Wherever our relations touch foreign nations, there the hand of the Federal Government must regulate; for there the people of each State are equally interested with the people of every other State; but this Federal power cannot intrude into those things which affect the people in their separate State life, their county life, their district life, their neighborhood life, their home life; for these interests have been properly relegated by all authorities to the control of their States, their counties, and their districts.

The people of Maine can better determine for themselves what is best for them in their every-day life than can the people of California determine this for them. This Saxon principle we brought with us from the forests of Germany to England—and the mother country has been enriched by the blood of our fathers spilled in its defense. Climatic and racial considerations, as well as religious and social, make it clear that the people of each State should, on every account, be permitted to control their local policies, without the interference of others. This nice adjustment of powers and duties under our Constitution has been the glory as well as the strength of America.

In matters in which all are equally interested, the Federal Government acts for all. In matters in which localities only

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are interested, no other power is permitted to interfere. In national affairs we are a unit; in local matters we represent forty-eight distinct and independent units, with laws, institutions, social customs, religious affinities and aspirations, as distinct as the billows. The strength of our government has been from the beginning in the recognition of these two principles—not antagonistic, but mutually helpful; and while there have been, undoubtedly, in our history difficulties in adjusting the exact line dividing these powers, yet, it must be admitted that the Supreme Court has maintained the equilibrium without a jar to the great fabric, and has faithfully repelled the aggressions by each upon the other with steady and even-handed justice.

Chief Justice Chase in Texas *vs.* White, 7 Wall. 725, has well stated the mutual relations of the Federal Government to the States, and the States to the Federal Government:

> Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the Constitution, but it may be not unreasonably said that the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the National Government. The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.

How, may it be asked, can the preservation of the States be maintained, if rights admittedly accorded to them can be taken from them by the Federal Government?

In the Virginia Convention of 1788, when the opponents of the Constitution led by Patrick Henry claimed that the treaty-making power was unlimited and, therefore, unwise, Mr. Nicholas replied:

> The worthy member says that they can make a treaty relinquishing any rights and inflicting punishments because all the treaties are declared paramount to the Constitutions and laws of the States. An attentive consideration of this will show the Committee that they can do no such thing. The provision of the Sixth Article is that this Constitution and the laws of the United States shall be the supreme law of the land. They can by this make no treaty *which shall be repugnant to the spirit of the Constitution, or inconsistent with the delegated powers. The treaties they make must be made under the authority of the United States to be within their province.* It is sufficiently secured because it only declares that in pursuance of the power given they shall be the supreme law of the land notwithstanding anything in the Constitution or laws of the particular States.[1]

[1] 3 Elliott's Debates, 507.

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The validity of a treaty carrying an appropriation has frequently been the subject of acute discussion in Congress. Since Congress alone can appropriate money, the House has insisted that a treaty providing for an appropriation of money must be submitted to the House. This question arose first under the Jay Treaty, negotiated by President Washington, in 1795, and by a vote of sixty-three to thirty-six the House asserted its prerogative.

Mr. Madison, then a member of the House of Representatives, and as the Father of the Constitution, possessing the best right of any man of his day to speak to this subject, said:

> He would appeal to the Committee to decide, whether it did not appear, from a candid and collective view of the debates in those conventions, and particularly in that of Virginia, that the treaty-making power was a limited power; and that the powers in our Constitution, on this subject, bore an analogy to the powers on the same subject in the Government of Great Britain. . . . On a review of these proceedings, may not the question be fairly asked, whether it ought to be supposed that the several conventions—who showed so much jealousy with regard to the powers of commerce, of the purse, and of the sword, as to require for the exercise of them, in some cases two-thirds, in others three-fourths, of both branches of the legislature—could have understood that, by the treaty clauses in the Constitution, they had given to the President and Senate, without any control whatever from the House of Representatives, an absolute and unlimited power on all these great objects.[1]

In 1814 the Treaty of Ghent, carrying provisions as to duties on articles imported from Great Britain, was transmitted by Mr. Madison as President to Congress, *recommending to them to pass* the needed legislation. President Grant followed the same precedent during his term, and in July, 1867, by vote of one hundred and thirteen to forty-three, the House asserted its prerogative again. A similar question arose in the Ashburton Treaty for the settlement of the northeastern boundaries between Maine and the British possessions, and Mr. Webster deemed it prudent to gain the consent of Maine and Massachusetts to the settlement. These instances—and there have been many others which could be cited—are sufficient to show that the treaty-making power is not supreme in the sense claimed by many of its advocates, but that, like all other powers enumerated in the Constitution, it must not be used for the destruction of others, but in mutual co-operation with all other powers

[1] *The Life and Times of James Madison.* Rives, pp. 558-9.

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equally supreme in their spheres, each must be used for the development of the Constitution in its true spirit and intent; it must work out its own destiny in accordance with the maxim *sic utere tuo ut non alienum laedas.*

If the claim of the advocate of the supremacy of the treaty-making power over the laws of the States declaring their domestic policies can be maintained, and the "fundamental laws of the States," as described by Judge Story, can be uprooted at the pleasure of the President and Senate, then is our form of government changed; for it has always been contemplated that these rights remain with the States and are necessary to their complete autonomy and development. If the power asserted be admitted, there is not a domestic right now claimed by the people in their local communities, sanctioned it may be by the usage of a hundred years, that may not be surrendered to this imperial power. What then becomes of Judge Story's statement in Section 1508 of his work, "A treaty to change the organization of the government . . . would be void?" To override Judge Story's position would be to allow the alien to enter any community or State of the United States protected under a treaty without the obligations of citizenship and without the restraint which these obligations bring, and enjoy in some cases even greater rights than the American citizen; he might become a voter without being required to comply with the laws of the State, which alone gives the right to vote; he might become an office-holder, denied to a citizen of the State, without fulfilling the requirements of the local law; he might violate the laws of marriage with impunity, and feel himself free from the restraints of the laws controlling divorce; he might be permitted to murder, and yet defy the processes of the courts of the States to bring him to justice.

It is sincerely to be hoped that the agitation of this question will bring about a more general study of its far-reaching effects, and will increase the carefulness of those whose duty it is to negotiate treaties with foreign countries, in seeing that no rights are attempted to be accorded to aliens that would destroy the delicate equilibrium of our governmental system, or might abrogate or annul the local laws declaring the local policies of the people, or that would attempt to place the alien in any position superior to that of the humblest American citizen.

I can close this paper in no better way than to quote the

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solemn and impressive language of Justice David Davis, in his opinion, in ex parte Milligan 4 Wall. 120—delivered at a most critical period in our country's history, and which must ever remain a lasting monument to his lofty patriotism. Speaking of the effects of the Civil War on the Constitution, he said:

> No doctrine involving more pernicious consequences was ever invented by the wit of men than that any of its provisions can be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism, but the theory of necessity on which it is based is false; for the government within the Constitution has all the powers granted to it which are necessary to preserve its existence, as has been happily proved by the result of the great effort to throw off its just authority.[1]

[1] The limits of this paper do not permit the discussion and analysis of the cases decided by the Supreme Court of the United States from Ware *vs.* Hylton, 3 Dallas 199, to Geofroy *vs.* Riggs, 133 U. S. 258 which are claimed to be opposed to the views expressed above. It is confidently asserted that no case has been decided by the Supreme Court involving the direct question herein discussed. All of the cases have decided questions collateral to the real issue involved in this paper.

HENRY ST. GEORGE TUCKER.

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GOVERNMENT RAILROADS IN ALASKA

BY CARRINGTON WEEMS

UNPRECEDENTED opportunity will soon be given to observe the effects of a most abrupt transition from complete administrative neglect to a paternalistic policy in Federal undertakings hitherto untried in America. For thirty years all but utterly neglected, Alaska may now be expected to divert national attention even from the completed Panama Canal. Congress has authorized the President to build and operate Government railroads in Alaska. That great Northern Territory, slighted overlong, is about to become a convenient experimental ground for advanced governmental policies.

In addition to the provisions of the law itself, the discussion which it provoked during the long fight in both Houses is sufficient indication of what may be tried out on long-suffering Alaska. In the Senate an amendment was aggressively urged by Senator Norris of Kansas, calling for the purchase of some twenty steamships and the operation of a Government line in the Alaskan service. The Progressive Senator Poindexter of Washington argued the desirability of making of the Territory a huge civil-service bureau, operating mines, railroads, and steamship lines; and Senator Martine of New Jersey was, if anything, even more radical. Many members of the lower House also took a socialistic view of the situation.

For the executive arm, Secretary of the Interior Lane presumably speaking with the approval of the President, had already outlined in his first annual report another original scheme awaiting application to Alaska. It is for a board of directors appointed by Congress to develop and at the same time to conserve the natural resources of the country. Although Alaska now has her own territorial government, Mr. Lane would superimpose a local Federal

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commission with supreme economic power divorced utterly from all political power—a novel experiment indeed from an American point of view.

Another innovation in store for Alaska is a leasing plan for her coal lands. This—the least doubtful experiment of the lot, in that such a plan has long been in successful operation in this country and elsewhere—was inevitable from the time that the coal areas of Alaska were withdrawn from entry and constituted a Government reserve. A bill bearing the approval of the Administration and now before Congress provides for the relief of Alaska by the development of her coal resources. Whether this belated proposal which logically had precedence over all the other experiments on the Administration's Alaska programme is to become law remains to be seen. Had this bill been given the early attention it deserved, it is very doubtful whether there would have been any excuse whatsoever for the more radical legislation.

But a less defensible order of procedure was followed by Congress in electing to experiment first with Government railways in Alaska. The conduct of experiment one is now in the hands of the President, to whom has been given the broadest possible powers.

The law provides for the construction of not more than one thousand miles of road connecting tidewater of the Alaska Gulf with the Yukon River, at a cost not to exceed $35,000,000. In its own phraseology he is to select those lines which will "best promote the settlement of Alaska, develop its resources, and provide adequate and suitable transportation for coal for the army, navy, and other Government services, of troops, arms, and munitions of war; of the mails, and for other Government and public uses, together with such branch lines, feeders, sidings, switches, and spurs as he may deem necessary."

The President is also empowered to locate and build docks and wharves and terminal facilities and to equip and operate the road. In the matter of operation a proviso in the bill permits him to grant for not more than twenty years a contract lease, or to employ the Government-owned Panama Railroad Company—potentially a very useful instrument in governmental railway experiments.

These, then, are the outstanding features of a law which because of the great size of the expenditure involved—the more to be avoided in a year when the national deficit is

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estimated at $25,000,000—and the novel policy embodied, is one of the most important pieces of legislative work this present Congress has performed. By many of its proponents it has been hailed as the establishment of a policy of Government ownership in a public utility, and many of those who did not actively oppose it expressed the hope and conviction that by meeting with disaster and reproach in Alaska it would save the rest of this country from any further application of that very policy.

Why so extreme a measure as the Alaska Railroad Bill became law during this session is worth considering. Authorization for the expenditure of $35,000,000 for the construction and operation of a government railroad in Alaska may be a true enough indication of how far the present Democratic Congress is tinctured with paternalistic ideas. But that fact by no means carries a sufficient explanation of the adoption by Congress of an expensive and untried scheme which to an unprejudiced mind having knowledge of Alaska must appear absolutely uncalled for.

The principal influences discernible were three. The rapidly growing national conviction that Alaska's appeals for relief had been too long disregarded was the occasion. An ungrounded fear of the monopolization of the Territory and its transportation facilities—ably aggravated by the promoters of the bill—was its excuse. The explanation offered was the increased need in the Pacific for naval coal, due to the completion of the Panama Canal.

Powerful political factors were also at work for the bill, notwithstanding the effort to make it appear a non-partisan measure. Aggressively pushed by the Western Senators and Congressmen to whose States the expenditure of so vast a sum in Alaska appealed for obvious reasons, the interests of the others—most of whom frankly admitted their utter ignorance of all Alaska's problems—were not deep-seated enough to develop a vigorous opposition. This was particularly true because the bill was a near enough approximation of the President's avowed policy to identify it completely with the Administration. The Baltimore platform was also invoked in its favor.

The business organizations of the Pacific Coast were influential. They had not been slow to see glittering possibilities. Seattle was, of course, a leading Western sponsor.

When the bill came to a vote in the Senate the disinte-

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grated character of the opposition constituted its greatest weakness. Senator Nelson of Minnesota, Senator Dillingham of Vermont, and Senator Lippitt of Rhode Island were among the few in the chamber who knew Alaskan conditions well enough to attack the measure on the ground of its impracticability. Senators Smith and Bacon of Georgia opposed the extravagance of the expenditure, while Senator Williams of Mississippi, who really led the fight against it, placed the emphasis of his protest upon what he considered the political unwisdom of Government ownership of railroads. In the House the opposition developed along the same lines, but the strength of the Administration secured the bill's passage by a preponderant vote.

However strong may be the arguments against government ownership, they proved arguments to which the present Congress was disposed to turn a deaf ear. As political and economic objections they are general and lie outside the limitations of this article. The Alaska Railroad Law itself is open to enough serious defects fully apparent to those who have an acquaintance with that Territory and its people.

First, however, for a brief review, Alaska's setbacks—apart from the very real ones attributable to nature—began in November, 1906, when by executive order President Roosevelt closed to entry the vast areas of Government land underlain with coal. From that day to this the ban has not been lifted, so great was the hue and cry against monopoly; nor has the Land Office dared to grant coal-land patents to the applicants whose claims were previously filed and whose first payments, amounting to several hundred thousand dollars, are still retained by the Government.

Alaska at a critical stage in her development was unlucky enough to be the field for that unavoidable conflict between the new and the old ideas of opening up public land. The natural protest against the slipshod methods of pioneer days was voiced in the cry for conservation.

After the conservation controversy was over—with misrepresentation aplenty on both sides—hysterical counsels had prevailed. To Alaska was left the rancor and prejudice which have yet to disappear. From the day of the Pinchot-Ballinger dispute railroad enterprises have languished for want of fuel and tonnage. Coal has been imported at an almost prohibitive cost. Industrial develop-

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ment has halted. Population has increased practically not at all. Still suffering from acute conservation, Alaska is to-day where she was then. The Guggenheim monopoly bogie has lost little of its potency. From year to year relief has been denied largely through belief in a myth which has rested on the land like a curse. All that has been necessary to block any legislation looking to the solution of the coal and land problem in Alaska has been to raise the cry that the Guggenheims were to profit thereby. Now ironically enough the measure which has finally become law is one very certain to redound to their advantage in taking off their hands by governmental purchase an expensive railroad property, admittedly a white elephant.

Neither careful investigation nor long-standing acquaintance with the facts in the case has ever furnished adequate reason for the hue and cry against monopoly that was raised, not in Alaska, but by avowed friends outside.

In any event, the courts disposed of the question. The Cunningham claims, less than one-eighth, and that not the pick of the Bering River coal-fields, were plainly illegal under the existing law forbidding association of claims—a law, by the way, which could not be lived up to in the actual practice of coal-mining, so small was the apportionment of land to each claim. With them disappeared even the remote possibility of Guggenheim interests gaining control of an Alaskan coal-field.

Since then the plain duty has faced Congress of devising a method by which Alaska coal could be utilized without risking its monopolization by individuals. That was seven years ago, and Congress has done nothing.

The Guggenheim monopoly of transportation is another myth of long standing. An ingenious slogan devised by James Wickersham, the delegate from Alaska, was used to good advantage by the leaders in the fight in Congress. "Guggenheim or Government" was the alliterative alternative it offered, and members ignorant of the facts and genuinely desirous of helping along the Territory's development made the best, as they supposed, of a poor choice.

The forced appearance of a monopoly ought perhaps to be explained.

So impenetrable is the mountainous coast line of Alaska that only two routes are available for an all-American railroad to the interior. Only the valleys of the Copper River

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and the Sushitna River meet every practical demand. The first has been utilized by the Alaska Syndicate in the construction of the Copper River and Northwestern Railway from Cordova to Chitina, with a branch to its Bonanza Copper Mine at Kennicott—about 200 miles in all. The other route, of which Seward on Resurrection Bay is the tidewater terminus, was the scene of a railroad undertaking that after several financial disasters collapsed entirely in 1908. This road, seventy-one miles of which were built, was backed by Chicago capitalists whose aim was to reach the Matanuska coal-fields, one hundred and eighty miles inland, by a route admitting of extension into the Tanana and Yukon River valleys. The Alaska Northern—as the road was finally called—had no connection whatsoever with the Morgan-Guggenheim project; it was in fact a rival enterprise.

Now comes that which gives false color to the claims of the shouting anti-monopolists. When the Alaska Northern succumbed to its financial troubles, due largely to the closing to entry of the coal-fields, the bulk of its bonds were in the hands of the Sovereign Bank of Canada, in which the Morgan house happened to own stock, retained in the liquidating company, formed when the bank failed. The Morgan firm is without representation on its board and has no hand in its management. This remote connection is the only ground for the ill-founded belief that the Alaska syndicate controls both routes to interior Alaska.

That the syndicate could control the transportation to and from the Bering River coal-fields was a claim made by the most reckless of the agitators. It hardly merits attention. A feasible branch-line route into that field has been surveyed from the Copper River and Northwestern; but, far from bolstering up a monopoly, that line would be lucky to get a portion of the coal-hauling business, so much more cheaply could it be handled by the Controller Railway and Navigation Company, across the Bering River Delta to Controller Bay. That this bay offers adequate harbor facilities was not known when the Guggenheim interests made Cordova their port of entry. As for any identity of interest between this company and the Guggenheim syndicate, not a shred of evidence supports the claim. Against it is the full weight of opinion of those who know the local history of the two enterprises and the sworn testimony of officials of the two companies.

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A similar claim has been made in regard to ocean and river steamship lines; it is similarly disproved. The single company known to have connections with the Alaska syndicate is the Alaska Steamship Company, in which the syndicate owns forty-one per cent. of capital stock. There are several independent companies doing a good business and their interests are protected by the Interstate Commerce Commission and the courts. On this showing the Guggenheims are said to have Alaska by the throat!

If they have a monopoly of any kind in Alaska, it is yet to be discovered. The one commodity that claims their particular interest is copper. But even so, several independent copper properties are being advantageously worked.

As Senator Lippitt of Rhode Island, a member of the Committee on Territories which considered the bill, said to the Senate:

> I have studied the testimony as carefully as I know how, and I think that no more unfounded, frivolous charge of monopoly was ever put forward, and that it is nothing more than an attempt to stampede the judgment of the country in favor of this step toward Government ownership of railroads by influencing them to believe that no other power can open Alaska.

How then could Alaska have been opened? What should now be done to give the Territory the relief long sought, promised in the present Administration's Baltimore platform, and not assured even by a government railroad?

First of all, give the Territory the public land laws so many years denied. No other nation could have so grossly neglected a distant possession. What is necessary to remove the abnormal conditions which have existed in Alaska for seven years, is to adopt a system of public land classification and regulation under which the vast areas now closed to entry may become available to settlers. While it is not generally known, the blanket withdrawals of Government land in Alaska comprise practically all that is believed to contain coal, oil, forest products, and medicinal springs. In addition there are large reservations for railroad, military, and naval purposes; for Indians, agricultural experiment stations, and the like. And very many of these generously bounded reservations overlap. At any time a leasing system might have been adopted by the Government with limitations preventing monopoly and safeguarding the public interest. But the powers at Washington

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did none of these things. Simple measures were pushed aside without trial for a radical piece of legislation which involves an initial expenditure—no one supposes that it is anything but that—equal to about four-fifths of what they expect annually from the Income Tax.

Walter L. Fisher, Secretary of the Interior under President Taft, who visited Alaska to study the situation, warmly espoused the leasing system for Alaska coal lands, and summarized his conclusions in a Department bulletin.

Besides throwing open Alaska coal deposits to a just exploitation, the proposed leasing plan would dispose automatically of the immediate railroad needs. Secretary Fisher, fresh from his first-hand study of the situation, testified before the Senate Committee that if an act were passed making provision for the disposition of the coal lands under a leasing system, private interests, in his opinion, would construct lines to carry out the coal from the Bering and the Matanuska coal-fields.

The Controller Railway and Navigation Company and the Alaska Northern testified that they were ready to begin construction as soon as the coal became available. With the tonnage derived from the coal and the stimulus given by a cheap fuel to the industries of the country, there is every reason to believe that the ordinary inducements for extending railroads into new territory would have brought them to the heart of Alaska in good season.

In the mean time the needs which may well be created by the Panama Canal and the naval problems which will develop therefrom, can be easily met. A naval coal-supply station on the Alaska coast, situated in a commanding position on the North Pacific, is possible without any such railroad-building programme as has been authorized. Private lines from the Bering field to a naval station on Controller Bay would have been one solution. Or, now that it has been thought desirable to have a Government road connecting a Government coal-mine with a Government coaling-station, such construction is simplicity itself. A road thirty miles long would cost less than a million dollars, and dock facilities for handling two million tons of coal annually would add only a half-million dollars more. This line would command the Alaska market by tapping an inexhaustible supply of coal with a straight, almost level line not much more than twenty-five miles long.

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The character and quality of the coal of Bering field cannot be determined with finality until the almost negligible prospecting work shall have been extended. At present the writer, who knows the field, sees no reason to doubt the evidence given by Dr. Alfred H. Brooks, Chief of the Division of Alaskan Mineral Resources of the Geological Survey, that the chemical composition of the anthracite and the bituminous coals found therein is similar, respectively, to the best Pennsylvania and Appalachian products. How much of the coal deposits may be "crushed" only development can tell. There is no question that, for various reasons, the recent naval tests of Bering River coal were quite unsatisfactory.

As stated in the minority report to the House: "Alaska needs, more than anything else, clear-headed, patriotic attention looking to the early revision of her land and mineral laws. . . . The construction of a railroad will in no sense solve this problem." That Alaskans themselves made a show of desiring a Government road was due to their despair of relief in the natural, logical manner. Their Territorial Senators did not fail to put themselves on record as believing that the majority of their constituents were opposed to government ownership of railways in Alaska.

In order to consider another aspect of the Alaska Railroad Law, the foregoing argument may be disregarded and the assumption made that for Alaska's salvation it was necessary for the Federal Government to undertake the construction and operation of a transportation system. Is not the scheme authorized impractical? Was not the law hastily and unwisely enacted?

It could be easily shown that the cost of constructing and maintaining a standard railroad, such as the Government would build, is several times the cost of similar construction within the States. The Copper River and Northwestern Railway is a line less than two hundred miles long. As it stands to-day it represents an expense to the Alaska syndicate of more than twenty million dollars. The annual cost of its upkeep is a handsome tribute to storms, snow-slides, and flooded glacial streams. The estimates upon which the law is based rest upon figures hastily gathered by the Alaska Railroad Commission. On most of the lines involved surveys are yet to be made. It cannot be doubted

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that the ultimate cost of a government line will enormously exceed these estimates. For a thousand miles of first-class railroad in Alaska—to say nothing of terminal facilities, equipment, and maintenance—forty million dollars is only a starter—a small first payment. As there are only about sixty thousand people in the Territory, from one far corner to another,—a little more than half of them are white,—the expenditure authorized for the Government line represents a rather too substantial per capita benefit. It is true that the increase in population by settlement is one of the things the project is expected to accomplish, but it should be remembered that in a region so vast not one thousand—the figure set by law—but ten thousand miles of railroad will be necessary for systematic development, once the President has committed himself to that policy.

This question of mileage raises an objection. And as so many miles of transportation lines are needed for even a first development, where the demand made upon them would be slight, there is reason in the contention that instead of the expensive trunk line, a network of cheaply built narrow-gauge roads or trails and wagon roads should be constructed to serve a better purpose for a fraction of the cost. Two or three million dollars expended by the Alaska Road Commission (the Federal Bureau responsible for roads and trails) might make an admirable beginning.

Those who disregard the enormous outlay to which the Federal Government will obligate itself in maintaining railroads in Alaska at its present stage of development have deluded themselves with respect to the returns. Efforts were made on the floor of both Houses to prove the existence of a profitable tonnage for the proposed carriers. No such tonnage exists, nor will exist for years to come. An analysis of Alaska's exports is illuminating on this point. Since 1867, something like $500,000,000 in exports have been drawn from Alaska. Of this amount about half were furs and sea products. The other half was mineral wealth, almost entirely gold. About the same proportions were maintained during the year 1912, when Alaska's productions, fairly well measured in her exports, amounted to $40,354,178. In other words, practically no exports represented tonnage for railroads. In all, it is safe to say that the tonnage coming out of the interior, to which the

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Government will build, does not nearly amount in the course of a year to the equivalent of one good train-load.

As for agriculture, usually the chief contributor to railroad development, practically nothing in the way of tonnage can ever be looked for from that source, notwithstanding the emphasis laid there by promoters of the railway scheme. The claims made for the interior of Alaska as a producer of foodstuffs are not even supported by the testimony of Agricultural Department officials, who are enthusiastically endeavoring to develop by selective processes plant life hardy enough to withstand the rigors of soil and climate. The average Alaskan is still less sanguine.

It is true that certain rapidly maturing vegetables can be grown there with striking success. Most grains, too, can with somewhat less assurance be grown to the point where they have value when cut for hay. Rye and barley are even matured in some specially favored sections and under restrictions which will always limit the production. Intensive gardening on a small scale may in the future provide the bulk of the food-supply needed by a population which for generations is destined to be scanty. But in all fairness it must be conceded that everything is against Alaska as a home for the agriculturalist.

Government reports are highly unfavorable. Two of the six experimental stations established were abandoned, after it had been proved through some years that grain could be successfully matured at neither. As conceded in these reports, Alaskan soils are not rich in available plant food, being largely of glacial origin; fertilizers are practically necessary. In the interior the virgin soil is frozen to bed rock. The cost of clearing the ground and thawing it out by repeated plowings is equivalent to the price of good farm land in the States. The growing season for plant life in the interior ranges from barely fifty days in the eastern section to one hundred and twenty days in the western. At Fairbanks, for instance, one of the least unpromising farming regions, frost occurred as early as July 31st in 1910, and reappeared four times in the succeeding August.

Another factor which can be expected to put off indefinitely the agricultural development of Alaska is its natural inability to compete in a market bountifully supplied from the outside by a Government railroad. For all the profit

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will melt overnight on those small farms, out of whose operations so much has been made in picturing agricultural possibilities as soon as natural blockades against the importation of supplies are removed.

In the face of such conditions it is unbelievable that Alaska will attract an agricultural population of any consequence, while only twenty-seven per cent. of the tillable land of the United States is under cultivation and good farmlands, are available for fifty dollars an acre.

The raising of cattle and stock, which has not been an encouraging enterprise—excepting reindeer, for whom vast areas of pasturage are available in Alaska—offers as poor a prospect of providing outgoing freight as cultivation of the ground. Nor does the exploitation of the very scanty timber which the interior of Alaska possesses offer any inducement to a possible shipper. The forests of the central section are of the woodland type, and while some forty million acres bear timber suitable for lumber and fuel, the trees are small. With anything like the degree of settlement which is predicted for the country there will not be enough timber for Alaska's own needs, even of the spruce which constitutes the bulk of the four million or so board feet of low-grade lumber now being cut annually for the mills of the interior. It will always be found necessary to import high grades of lumber for building.

Nowhere can an unbiased survey disclose a source of tonnage which will make the operation of a Government railroad in Alaska anything but an appalling expense for many years to come if not indefinitely. Judged only as a business proposition, the expenditure of $35,000,000 for railways in Alaska under present conditions has nothing to commend it.

As for serving the cause of the people against the so-called monopolists in Alaska, it is difficult to see how any could suffer less or profit more than they whose shadow has rested so long on the Territory. They will find themselves at once fairly relieved of the burden of keeping up a railroad whose maintenance costs them dearly every year, and assured of regular service and equitable freight-rates between their mines and tidewater, which is more than they have ever had in the past.

CARRINGTON WEEMS.

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WHAT IS AGRICULTURAL CREDIT?

BY R. B. VAN CORTLANDT

AGRICULTURAL Credit is something vitally interesting to every citizen of this country. The term is new here, but the thing itself is so urgently needed that we must have it in some form if our people are to remain prosperous—if, indeed, we are to continue to live. Various European nations, with soil naturally inferior to ours, have established Agricultural Credit and thereby have greatly eased the burden of the cost of living. Hitherto we have lived on the bountiful overflow of our rich land, and the pinch of necessity has not been felt; but now our population has grown enormous, our standards of living have been greatly raised, and our land is showing the effect of generations of taking out with very little putting back. We must do better or suffer.

How will Agricultural Credit help us? Speaking generally it will make life easier and better for all of us by increasing the yield of the land. And this will be done first, by placing agriculture on a better business basis; second, by mobilizing land and land mortgages; and third, by establishing financial institutions in which the prime interest will be that of the borrower—not that of the lender. If this programme seems utopian, the best reply is that its aims have been already realized with great gain in Europe, notably in Germany and France.

Hitherto the American farmer has not been a bookkeeper. His work is hard, and when the day is done he does not care to reckon up accounts. If at the end of the year the unpaid bills are not too heavy, and if the farm buildings, stock, tools, etc., are in fair shape, he is satisfied. That was the practice of the fathers, and it answered for their time; but to-day we are confronted with conditions that demand vast improvement in our methods if we hope to survive. Our grain and our cattle used to feed a large part of Europe. They do not now—or at least our food exports are but a fraction of what they used to be. We must not only replace the

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elements of fertility in the land, but we must practise more intensive cultivation.

These things cost money. The initial investment must be large. The question then arises is the American farmer, so long used to easy-going methods, to get hold of the large sums he needs for betterments? By the installation of Agricultural Credit, farming will not only be made more profitable, but it will in the end make country life more attractive, so that our young people will remain on the land, and thereby check the present tendency to flock to the cities. The banking system of to-day is adapted to the needs of manufacture and commerce. The processes of nature are so much slower, however, that banking for farmers must be organized on a basis of credit for much longer periods.

Our present system of borrowing on land is by mortgages running from three to five years, the entire principal coming due at one time. This is expensive, involving renewals, and dangerous from the possibility of the mortgage falling due at a time of restricted credit so that it cannot be renewed. On the continent of Europe this business is handled by so-called land-mortgage banks, or rather associations. These associations are formed along varying lines, some with stock like the great French institution, the *Crédit Foncier;* some having no stock, like the German *Landschaften;* some being guaranteed by a state or province, as in Austria; while the principal one in Hungary combines ingeniously various features peculiar to itself. These institutions are formed along certain general fundamental lines as follows:

The mortgages granted are pledged for the security of bonds which the institution issues and sells in the general market. These bonds have no fixed maturity, but can be retired at par or some small premium at any time. When the borrower mortgages his land to the bank he agrees to pay a certain fixed sum semiannually. This is called the "Annuity" and is composed of the annual interest plus an amount, generally one-half per cent., toward the reduction of the principal of the debt and known as "Amortization," and an additional amount, about one-quarter per cent., toward the expenses of the bank. The borrower, therefore, at once begins to extinguish the principal of the debt; and as each year the principal decreases, the interest, of course, decreases also, and, the annuity being fixed, the proportion of it applicable toward the extinction of the mortgage in-

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creases. Thus it happens that, beginning with a payment of one-half toward principal, the mortgage bearing four per cent. to four and one-half per cent., which are the general rates, the entire debt is extinguished in between fifty and sixty years.

The borrower has the right at any time to pay off the mortgage, a small penalty being generally exacted; but the lending institution cannot require payment from the mortgagor, thus guarding against any higher rate of interest being exacted during the life of the loan; whereas, should interest rates fall, the borrower can anticipate the payment of the mortgage and secure the benefit of the lower rate of interest. If payment of a mortgage is anticipated, or when the semiannual payments are received by the bank, it enters the market and buys or retires a corresponding amount of its bonds, so that its outstanding bonds never exceed in the aggregate the total of the mortgages it holds against them. This has also the advantage of making a constant market for the bonds, and there is no necessity of sinking-funds for special mortgages, as they are under a general pledge. These banks do not compete with the commercial banks.

The mortgaging of land is known as long-term credit, and it may be handled, as stated above, by joint-stock institutions or by associations of borrowers, the nature of the business being such that both forms of institutions have advantages and defects which may make the one form more adaptable to one community and the other form more adaptable to another; but in institutions furnishing the credit required by farmers for working capital, such as the purchase of seeds, fertilizer, payment for labor, etc., which is known as short-term credit, the third aim referred to—that the borrower should be primarily considered rather than the lender—assumes fundamental importance.

On the continent of Europe a solution is found in the organization of banks by the application of so-called co-operative principles. The purpose is to provide organizations in which the borrower receives consideration rather than the lender, also to keep the money of any body of individuals for the use of that body. Under our present system a great deal of money belonging to farmers finds its way into Wall Street. At present the lenders are organized; whereas the borrower stands alone. In a joint-stock bank the primary consideration is that of the stockholders.

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The initial capital is secured by entrance fees and subscription to shares wherein the principle of limited liability is adopted; or, if there are no shares, resort must be had to the principle of unlimited liability—*i. e.*, the equal and unlimited liability of all members who join the bank for every obligation the bank may contract.

After the co-operative bank is formed, the problem of securing funds to loan is, of course, the chief one; but, as one of the principles followed is to limit dividends on the stock to four or five per cent., a reserve can be gradually accumulated. Deposits come in as it is seen that the bank is doing a safe business, all speculative business being avoided. Other important features are that every stockholder has but one vote, no matter how many shares he owns; it is provided that no person shall own more than a certain number of shares, generally ten per cent.; and another absolutely essential feature, where the bank is formed with unlimited liability, is that the area in which it operates shall be so restricted that the members can all know and watch one another. The loans must be for a productive purpose and not, for instance, for living expenses, so that when the purpose sought has had time to accomplish the results aimed at, varying in agriculture from six months to two or three years, the borrower will receive funds to liquidate the loan. Loans are granted only to members of the bank, although deposits are accepted from outsiders.

The chief difficulty is that of securing funds sufficient to supply the needs of borrowers; therefore the advisability of forming a central bank for a group of local banks was clearly seen. The central bank acts as a clearing-house for the funds of the local banks, some of which have a surplus of deposits above the loan requirements of their neighborhood. In addition, the central bank, being an institution with very considerable resources, is in a position to do business with the large commercial banks and with the Government banks of issue which exist practically in all European countries. That this whole system of co-operative banks is of no mean proportions is at once shown by the fact that in Germany, for instance, their deposits amount to nearly $500,000,000, and the turnover of thirty-six out of forty central banks in 1910 was about $2,000,000,000.

R. B. VAN CORTLANDT.

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"TWENTIETH-CENTURY CHRISTIANITY"

BY REAR-ADMIRAL A. T. MAHAN, U. S. N.

In the New York *Times* of Sunday, January 11th, of the present year, is reprinted a paper by Dr. Charles W. Eliot, long the president of Harvard University. This paper was first read before the General Conference of Unitarian and other churches, held in Buffalo, October 6, 1913. The title was the same as that given the present article—"Twentieth-Century Christianity." I have taken it because I purpose to deal with the same subject, less from the standpoint of prophecy concerning the future, based upon an estimate of certain selected current conditions—which is the gist of Dr. Eliot's paper—than by an appeal to history; to past conditions, which, so far from being now past, possess present vigor, consecutive and continuous with the sustained record of eighteen centuries.

No one of these centuries but has witnessed the uprising of particular conditions; analogous to those cited by Dr. Eliot, in that they have been departures from, and antagonistic to, the Christianity of the centuries, which nevertheless remains to-day essentially the same in its great foundation, which is the Divinity of Jesus Christ. The antagonisms have come and gone, and have been succeeded by others. They have almost always exerted upon the course of continuous Christianity a beneficial influence, forcing it to think; but they have not shaken the foundation, although Dr. Eliot appears to think that that foundation now is shaken and will be removed.

The present conditions upon which principally Dr. Eliot bases his estimate of the future are the progress of science, with its effect upon the general bias of men's minds, and the criticism which the Bible text and narratives have under-

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gone at the hands of scholars. To this he adds certain comments upon the spirit of democracy as affecting men's conceptions of God and their attitude toward the churches; all which I think may fairly be summed up as a prediction that the reverence for Authority, at least in spiritual matters, is undermined and about to fall.

It is needless to say that the conflict between liberty and authority is perennial. As a matter of fact, almost all of us have to accept authority of experts—of those who know—in matters of which we ourselves are ignorant; either that, or a mastery of the subject attained for ourselves, a thing often impracticable. Christians generally will admit that in the case of individual responsibility and decision no authority is known superior to the authority of conscience. That granted, there is liberty; but they will add that a man is responsible for his conscience; that it must be instructed and enlightened up to the means available to his use. A mere slap-dash, superficial opinion, formed on imperfect knowledge, is not a justifying conscience. Authority has a place in human life from which it can never be deposed, because no man can be competent to decide all truth for himself.

Dr. Eliot's thesis may be summed up under two heads.

1. It is a prophecy, based upon assigned reasons, as to the character which Christianity will tend to assume during the current century; that it will approximate increasingly to the form of belief known as Unitarian.

2. It ends with an appeal to the Unitarian body to fulfil this prophecy by propaganda at home and abroad.

Before commenting on these two, it may be remarked that Dr. Eliot's statement, advanced apparently as a novel conception, that God appears to modern thought as an incessant worker, "sleepless activity, energy, and will," is a commonplace of historical Christianity. At its earliest beginning Christ Himself affirmed, "My Father worketh hitherto, and I work." "Not a sparrow falls to the ground without your Father." The conception of God as having created a Universe once for all, and then abandoned it, is not Christian, but Deistic. The unceasing working of God runs through the whole New Testament, as it does the Old. "He that keepeth thee shall neither slumber nor sleep." "Fire and hail, snow and vapor, wind and storm, fulfilling His word." "Work yourselves, for it is God who is working in you,"

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says St. Paul. The efficacy of Prayer, never more insistently urged than by Jesus, and by Christian workers of today, implies an unceasing interaction of God's work and man's work.

Dr. Eliot formulates as follows his coming Christianity:

> It is expressed in the formula, the Fatherhood of God, the brotherhood of man, and the leadership of Jesus. This is a form of Christianity which prefers liberty to authority; sees neither deities nor demons in the forces and processes of nature; *deifies no human beings;*[1] is not propitiatory, sacrificial, or expiatory; . . . relies on reason and hope; has ministers and pastors, but no mediatorial priests; recognizes and resists sins, wrongs, and evils, and looks death in the face, but dwells chiefly on goodness, life, and love.

It is somewhat difficult to reconcile seeing neither demons nor deities in the processes of nature with Dr. Eliot's later statement that "Twentieth-century people recognize God chiefly in the wonderful energies of sound, light, and electricity, in the vital processes of plants and animals," etc. Surely he would not imply that nineteenth or eighteenth century Christian people saw lesser gods than God in such activities. Otherwise, in the words quoted there are some things in which all who in earnestness call themselves Christians will agree; some in which there is great and allowable difference of opinion; but the phrase in italics summarizes the decisive impassable gulf between the Christianity which has been and still is—the Christianity of History—and that to which Dr. Eliot's prediction assigns the dominance of the future. The modern Christianity, he says, "deifies no human beings." This is meant to be a rejection of Christ's Divinity. The word "deify" means "to make a god of" that which is not God, and in this sense every Christian will assent. But while Dr. Eliot in his own sense uses the word correctly, for to the Unitarian Jesus Christ is only a man, and to worship such as being God is to deify, historic Christianity has not so deified Jesus. It has from the beginning recognized and affirmed that He was and is, in Himself, God, manifested in human flesh. This is the doctrine of the Incarnation: that in essential personality Jesus Christ is God from all eternity; that at a certain moment in time He took flesh and appeared as man, in order, among other reasons, that thus, expressed in terms of our manhood, in His life and in His death, we

[1] Author's italics

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should see, and to the utmost of our capacity might comprehend, what God is in Being, in character, and in act.

This is not deification. It does not make a god, it recognizes a truth. To no other human being do Christians assign Divinity.

As a matter of history, this conception of Christ as God has been the foundation fact in Christianity. It alone imparts significance to His Life, His Death, His Resurrection. Through the Christian Church it has been also the foundation fact in the history of the peoples among whom that Church has established itself; and that despite the many shortcomings and scandals, notably the intestine quarrels and pitiful divisions, before which we of to-day bow our heads in shame. Yet not without hope, for that Jesus Christ is God remains the common confession of all. This is the flat absolute contradiction of Unitarianism; the difference is radical—fundamental. Unitarianism in various forms is no new thing. It has struggled many times to make good, but it has always failed to control the belief of the Christian body. Judaism is unitarian. Mohammedanism is unitarian in its belief concerning God. Also, like Dr. Eliot's coming Christianity, it recognizes the eminence of Jesus; though it reckons Him inferior to Mohammed.

Let us turn from prophecy to history. To whatever causes assigned, the world-wide acceptance of Christ as God will, I think, be admitted to have been, and still to be, the decisive characteristic of the Christian Church. The great Eastern and Roman Catholic communions so hold; likewise all the large Protestant bodies. This belief is not incidental, but fundamental. All essential Christian teaching rests upon it. With it destroyed, the whole edifice of Christian beliefs collapses; the past nineteen centuries have been to Christians a delusion. There is no bridge between this belief and the Unitarian. The chasm is absolute. Men on either side may have mutual esteem, may work together for secular or benevolent ends; but the springs of their religious action are fundamentally diverse, and in the long run the results will differ as two plants from different seeds.

Look at results in the world as it now stands. This delusion (if it be so) has been the great energizing force in the peoples called Christian. Over forty years ago a Japanese memorialized the Emperor to remove the existing prohibition of conversion to Christianity. Said he:

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> The industry, patience, and perseverance displayed [by Christian nations] in their arts, inventions, and machinery, all have their origin in the faith, hope, and charity of their religion. In general, we may say that the conditions of Western countries is but the outward leaf and blossom of their religion, and religion is the root and foundation upon which their prosperity depends.

A curious confirmation of this, to which, however, too much significance should not be attached, is that in a competition for prize poems offered by a Tokio newspaper in 1902, to which twenty-six hundred responded, of forty poems selected as most worthy more than half were written by Christians; and the three highest prizes all went to Christians. The result was explained as due to the religion of the writers, which had helped to inspire them with fresh and lofty thoughts. Although at most periods the number of those who have embodied their Christian belief in their lives has been small relatively to the whole population, the history of the countries into which the Christian Church has made its way has shown a progressive Christianization of ideals, taking practical effect in common life. Quietly and insensibly, these obtain general acceptance, which, unhappily, is not the same thing as universal observance; but they influence standards. There is a gradual uplift, such as geology affirms of parts of the earth's surface. This, and not real Christian living on the part of the majority of the people, is the note of the secular history of the nations called Christian. Not a universal following of Christ's words and example, but an atmosphere; to use His own prediction, "the salt of the earth," "the leaven of the lump." "Ye are the light of the world." "Ye are the salt of the earth." "A little leaven leaveneth the whole lump." This is so because the God Jesus dwells in those who serve Him, imperfect as they themselves are.

Where else than in Christian peoples is this progress to be found? Look at Mohammedan countries; look at China; look at India; look at Japan. The progress of Japan is perhaps even a more striking illustration than the backwardness of the others. Only forty years have passed since (in 1873) the edict-boards, prohibiting conversion to Christianity under very severe penalties, were taken down. Already there are nearly 200,000 Christian converts. Two hundred thousand in forty-five million seems few; but I apprehend St. Paul would have been astounded if at the end

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of his career he had found as many in the Roman Empire, despite its common dialects and his own peculiar "gift of tongues." A Japanese Premier, not himself a Christian, has said, "Though the numbers are few, the indirect influence is great." Again the salt and the leaven. In China and in India the like tendency is noticeable. In India, the "outcasts," the "untouchables" by the Brahman, Christianized and uplifted, are teaching in schools and colleges the children of those whom under the Hindu caste system they may not even approach. An experienced African administrator, Sir Harry Johnston, has said, "The Church Missionary Society for good or ill has done more to create British Nigeria than the British Government." In the *Outlook* of January 14th we read, "There is a general movement toward Christian institutions in the Turkish Empire. Five years ago fear of persecution prevented Moslem parents from sending their children to Christian schools. To-day every American college in Turkey has an unprecedented number of Moslem students. The colleges are packed to the doors. Moslem mothers come to the heads of colleges pleading for the admission of their sons." Yet this remains only benevolent, so long as conversions are prohibited and do not take place. Doubtless it is "making ready a people prepared for the Lord"; but not till numbers turn to Christ, and become Christians, will there be the salt and the leaven which changes the character of a nation and thereby its destiny. Only in countries under Mohammedan rule is conversion forbidden; hence the hopelessness of Turkey, Persia, Afghanistan.

"My Father worketh hitherto and I work." The forward work of Christianity, based on the acceptance of Jesus as God, goes on to-day with increasing fervor and energy, and with increasing results. Statistics are wearisome, yet I venture to quote here a summary that can be but little known to the general public, which has come in my way as a member of one of the "continuation" committees of the Edinburgh Conference of 1910. It refers to Protestant Missions only—does not include those of Greek and Roman Catholics.

Protestant Missionary "enterprise now represents 24,092 foreign missionaries, 111,982 native workers, 2,644,170 adult communicants [in full membership], a Christian community of 6,837,736, 86 colleges and universities, 522 normal and theological colleges, 111 medical colleges, 98 training-schools for nurses, 1,714 boarding and high schools, 292 indus-

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trial training-schools, 115 kindergartens, 30,185 elementary and village schools, 576 hospitals and 1,077 dispensaries, 271 orphanages, 88 leper asylums, 21 homes for untainted children of lepers, 25 institutions for the blind and for deaf mutes, 21 rescue homes for fallen women, 103 opium refuges, 15 homes for widows, and 28 industrial homes, and one hospital for the insane. These works extend over 38,557 cities and villages of the non-Christian world.

Striking as these figures are, it will be recognized that they are small measured against the population of the non-Christian world; but let it be recalled that they are the salt and the leaven, the historic symbols of Christian energy; and that they would not have been at all, except as laid as tribute at the feet of the Crucified Redeemer, whom we worship as our God. Let it be added, too, that the leaven works continuously; not only numbers but influence increases daily.

In this movement what part is played by those who deny that Christ is God? by those who for motive to self-sacrificing energy look to the formulations of Dr. Eliot? Let there be no mistake. This immense action, like its antecedents in the long history of Christian Missions, depends upon the sole conviction, enunciated by St. Paul, that "Jesus Christ is the Son of God with power, so proclaimed by His Resurrection from the dead." That He, being God, humbled Himself to take our nature into union with Him, in order that He might be the world's Redeemer—which Christian History demonstrates Him to be—this to believers arouses the enthusiastic devotion, which finds expression in the myriads of lives to which He is the one inspiration.

For argument, let us concede that this belief is mistaken; that the Apostles, in witnessing to the Resurrection, and that the Christians of the succeeding centuries, have been under a profound delusion. The fact remains that the belief has constituted a gigantic spiritual force, constantly renewing itself, possessing to-day the full vigor of its youth, and characterized throughout by that one supreme motive in human action—passionate devotion to a Person, to a great Leader; nay, to a personal Saviour and Redeemer. "We love Him because He first loved us." Such a fact demands explanation. Does any one really think that the tepid admiration we all feel for a long-dead teacher, such as Socrates, even though he have the supremacy Dr. Eliot

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grants to Jesus, can provide the power which such belief in Christ gives? (I here pass over, of course, the spiritual power we believe He constantly ministers to His sincere followers.) Can scientific conceptions or ethical maxims supply that energy of self-sacrifice which Jesus Christ certainly has elicited and still elicits? The appeal to history is simple and sure. Follow through the ages the narrative of Missions, from Christ Himself, and Paul, to—say—David Livingstone, or to the Christian ministers who a dozen years ago died with thousands of their converts in China, for the Faith; count the heroes, and parallel them if you can by equal self-devotion maintained through centuries for any other one cause.

It will not, I trust, be thought that I am denying self-sacrificing heroism in many other causes. A military student is scarcely likely to do that; nor do I forget the instances in many professions, notably the medical, nor the daily record of heroic acts by persons otherwise obscure. There is much raw material of heroism in human nature. That to which I seek here to draw attention, as being unique, is the heroism which not only dares, but endures, for reasons always unselfish; and the distinction of which is that it is elicited and sustained from generation to generation by one single motive, devotion to Christ as God, continuous from the day on which Christ was crucified till now. These jewels are all on a single thread.

The unequaled motive power of love to a person is the record of humanity, in private life and in public. It shows itself sometimes on a small scale, numerically; sometimes on a large, as in the case of the great Napoleon. Mohammed is a conspicuous instance. Like Jesus Christ in this, he retains to this day the enthusiasm of his followers. It is the mainspring of their religion. No more effective war-cry was ever framed than "there is no god but God, and Mohammed is His prophet," and Mohammedanism is a religion of the sword. But compare the two lives, the two teachings, and the two results in the progressive decadence and present social conditions of Islam, and the sustained upward movement of Christendom.

Take the Christian states most backward in our estimation; say Russia, with its Jewish policy and massacres, its stunted political development; or consider the condition of much of Latin America. In the latter case the progress in

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the last thirty years is known, and warrants expectation for the future. For Russia, I know from a competent observer that the material advance, which has been the handmaid and attendant of Christianity, far exceeds what we here appreciate; but, rightly to estimate the influence of the Christian salt, compare her with the greatest and most enduring Mohammedan power of history—with her neighbor Turkey. Constantinople, one of the great strategic positions of the world, fell in 1453, but for a century before that the Turks had been in the Balkans. The Turkish Empire had then reached its highest development. Russia, at that time a geographical expression rather than a nation, a congeries of petty principalities with a nucleus at Moscow, was just escaping from prolonged Mongol domination. The history of her progress thence is in many respects lamentable, as is her present. As ever, Christianity has been a deciding influence in the lives of but a small part of her people; but it is always there. It is there to-day—the salt and the leaven. Where is a sign of dawn for Turkey, despite fine traits of character in her people? In the political balance, the internal order of Russia compares most favorably with the paralysis of authority in Asia Minor, as testified by current periodical literature. Sir Edwin Pears, the president of the European Bar in Constantinople, resident there for forty years, said two years ago, that whenever the yoke of Turkish misrule is removed the new Christian states advance in all that makes for civilization. Why does not Turkey also?

Now, whatever my personal opinion, I do not commit myself to saying that to Christianity alone is due, in last analysis, the differences noted. I simply state the unchallengeable general fact that, wherever Christianity is, there coincidently is progress, and sustained progress; and that where Christianity is not, there is coincident decadence until Christianity enters, and that then the movement is reversed, as to-day in China and India. Further, the Christianity which is thus efficient has been and still is that which affirms the eternal Divinity of Jesus Christ and His Resurrection from the grave; finding in the Incarnation and the Cross the inexhaustible motive to action, as it finds in the Resurrection the demonstration of the Incarnation.

The various intellectual movements of the nineteenth century upon which Dr. Eliot bases his prophecy, scientific dis-

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covery and Biblical criticism, with consequent changed points of view, have in no degree altered the fundamentals of decision. That these, with other causes, tend to keep a great majority of persons indifferent or unbelieving, is simply perpetuating a condition which has always existed. Those in whose personal lives Christianity is a power have always been a minority; but it is a minority in which, despite the shortcomings and the internal divisions which are the reproach of the Christian body, Jesus Christ dwells, and through which He works. That is all the difference. From age to age unbelief and indifference have shifted their ground; in our own day they have their specific basis. From the beginning throughout the Christian faith has had one foundation, which, to use one of St. Paul's summaries, is, "Jesus Christ, Who died; yea, rather, Who is risen again, Who also sitteth at the right hand of God."

In conclusion, be it noted that Dr. Eliot's postulate of the "Fatherhood of God" cannot be substantiated as a scientific proposition. No more can the very existence of God. Apart from a revelation, the existence of God cannot, as far as yet apparent, receive that demonstration to the senses which Science demands for acceptance as a fact. His existence, still more His fatherhood, remain mere inferences, matters of faith, which rest on much less solid foundation than the general Christian belief; for this advances as its basis a substantial fact, an experience of the senses, such as Science requires. The witnesses to the Resurrection of Jesus Christ assure us that they knew the fact by the tests of sight, hearing, and touch, applied to His risen Body. This evidence may be rejected; but those who have accepted it, with the inference from it and other collateral circumstances that Christ is God, have originated and sustained a movement which throughout its history has coincided in the long run with the advance of human liberty and of human welfare; which, as was said of its first preachers, has turned the world upside down. We who believe have no doubt that as it has been, and now is, so it will continue to be. But I do not wish to transmute conviction, however sustaining to us, into prophecy to others. I rest the case upon experience, the experience of the past and of the present.

A. T. Mahan.

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SPRING NIGHT

BY SARA TEASDALE

The park is filled with night and fog,
  The veils are drawn about the world,
The drowsy lights along the paths
  Are dim and pearled.

Gold and gleaming the empty streets,
  Gold and gleaming the misty lake;
The mirrored lights, like sunken swords,
  Glimmer and shake.

Oh, is it not enough to be
Here with this beauty over me?
My throat should ache with praise and I
Should kneel in joy beneath the sky.
Oh, beauty are you not enough?
Why am I crying after love?
Have I not an eager soul
With God for its last splendid goal?
Youth, a singing voice, and eyes
To take earth's wonder with surprise?
Why have I put off my pride?
Why am I unsatisfied,
I for whom the pensive night
Binds her cloudy hair with light,
I for whom all beauty burns
Like incense in a million urns? . . . .
Oh, beauty, are you not enough?
Why am I crying after love?

SARA TEASDALE.

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PAUL FORT—BALLADES FRANÇAISES

BY J. K. ROOKER

For long in the history of French literature the *Académie Française* has stood for talent as opposed to genius. And if one class were looked upon askance by that august body, more than another, it was that to which the young poet belonged. A seat among the immortals on the Mount of Parnassus carried with it no seat, *ex officio,* in the *Académie Française.* So, some half a century ago it was determined that a "Prince of Poets" should be elected and chosen by his peers. The palm should be given to him who possessed what the *Académie* condemned—originality and genius. The first to receive this palm was Leconte de Lisle, then Paul Verlaine and Stephane Mallarmé; it is now held by Paul Fort, *poète français.*

Our object here will be to define, as far as we are able, the chief qualities of the poetry of M. Paul Fort.

The name of Paul Fort may still be unfamiliar to some Americans, even to those who dabble in French literature; and we must admit his works are unknown to great numbers of his own countrymen. Yet Paul Fort is a unique personality, exercising a considerable influence on the young poets of the present generation. The last of the *Cénacles,* which flourished in the days of the symbolists, is under his presidency—it was, indeed, at *La Causerie des Lilas,* held at a café in the Latin Quarter, that the writer first saw Paul Fort. His presence was one that could not easily be forgotten; the tall, straight figure, with the dark, shining eyes and jet-black hair plastered over the high tanned forehead, fixed itself on the mind.

Our poet was born at Rheims in 1872, and his name was familiar to literary circles before the age of twenty, as the founder of the "*Théâtre d'Art*" in opposition to the "*Théâtre Libre,*" where the young naturalist writers of the

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day performed their plays. Alone, possessing no influence, Paul Fort set about his task; he inspired actors to join him without any promise of pay, put up his own scenery, and gave to a select public for several years their first taste of Maeterlinck and the idealist writers of the time; also now and again less modern plays were staged, and it is interesting to note that Marlowe's "Faustus" and Shelley's "Cenci" figured in his programme. However, Paul Fort was not to remain long the manager of a theater, but as suddenly as he entered active life he left it, to retire and wander alone for three years over hill and plain. These years of silence were not unfruitful; they were immediately followed by the first publication of the first series of the "*Ballades Françaises*" (1897), which at once gave him an assured place among the poets of his day.

The "*Ballades Françaises*" have now mounted to the tenth series, and in fact almost all Monsieur Paul Fort's poetry has been published under that title.

There is a difficulty, and a serious one, which immediately confronts the critic—it is the universality of Paul Fort's appeal. Nothing seems foreign to his sympathy: he meets life at every point, and in his verse jots down his impressions. For often it is a mere jotting down; the poet catches an emotion or a thought on the wing, and retains but enough to give the same sense of something fleeting and transient. This is most noticeable, perhaps, in the second series, entitled "*Forêt-Plaine-Mer*," where nature under a thousand different aspects is for a moment portrayed in his verse.

Yet, however great the variety may be, however vagrant the poet's caprice, in all he writes is felt a subtle charm emanating from the man. This is an individual gift, which by no means every poet possesses, and often not even the greatest, but one, nevertheless, of the most pleasing of which a poet can boast. A quotation will make our meaning more clear:

> Si toutes les filles du monde voulaient s'donner la main, tout autour de la mer elles pourraient faire une ronde.
>
> Si tous les gars du monde voulaient bien êtr' marins, ils f'raient avec leurs barques un joli pont sur l'onde.
>
> Alors on pourrait faire une ronde autour du monde,
> Si tous les gens du monde voulaient s'donner la main.

About poetry of this kind there is something infectious. It does not carry you away to heights of passion as does

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greater poetry, yet you cannot escape it. The magnet is there, and the magnet draws. About much of the verse of Paul Fort there is this delicate attraction, this haunting simplicity.

At times, however, our poet rises to more majestic levels, and his greatest triumphs have been in the fusion of sincere sentiment and fantastic imagination.

> Le ciel et les sommets sont la même patrie, et leurs voix, plus tragiques, s'épousent dans le soir, lorsque vers les étoiles l'aigle pousse un grand cri, que suit le bêlement plaintif des chèvres noirs.
>
> On ne sait si les pics deviennent transparents, ou si le ciel y vient tourner ses pierreries: si les astres mirés tintent les torrents, ou si la voix des eaux rythme le flot des nuits.
>
> Mais tu pourrais, poète,—si l'homme savait croire—élever en prière ton lyrisme hardi, ne voir en la montagne, offerte en bel espoir, qu'un échelon vers Dieu et vers son paradis,
>
> dominer la montagne, et tu verrais, peut-être, sur la plus haute cime que tu aurais gravie, descendre des étoiles ou monter de ton être l'échelle de clarté qui mènerait vers Lui!
>
> Oh! si tu savais croire, poète qui souris, ton émotion même te porterait à Lui, tu n'aurais d'horizon que celui de ton âme, et tes rêves au ciel mêleraient leurs montagnes. . . .

This power of combining intense emotion with great imaginative force marks the highest point, to our mind, that the poetry of Paul Fort reaches. The fancies of his mind seem to run wild picking at every flower whose gay and curious colors catch the eye, and he chooses the most curious and the gayest with which to wind his wreath of song. In his inspired moments he lives in a world of metaphor of astonishing variety and richness; and it is only the trembling sincerity of the verse which repudiates the suggestion that he has gone in search of his imagery definitely seeking the most unlikely and strangest he might meet upon his way. It is by drawing his inspiration from the elemental emotions of the human heart that he avoids artificiality. For three years he buried himself alone among the beauties of nature after all the activity of a life fully lived in Paris; from that close communion was born his book of ballads singing of the plains, the forests, and the sea. In the actual emotions which the poet experiences there is a certain simplicity; it is only in the imagery that we notice all the wealth of a Southern mind ready to catch every shade of color and tone. In the union of these two qualities the special charm and in-

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terest of his poetry lies—it is simplicity of conception with Oriental abundance of metaphor.

The danger of this union is when the harmony fails, when the gaudy dress but clothes a poor and weak skeleton, when the initial conception lacks inspiration, and the poet in multi-colored garments would hide the place where the heart should beat and cover the motionless flesh. And we cannot deny that some of the work of Paul Fort is guilty of this mean device.

The sympathy of Paul Fort, we have said, is all-embracing. The whole of humanity seems to find entrance to his heart: from the town-dweller to the Bohemian of the Latin Quarter, from the provincial tradesman to the tiller of the soil. And, what is of more importance, this sympathy springs from inner knowledge, for he has lived with them all, watched their doings and followed them in the insignificant acts of daily life, and thus been enabled to see closer and more clearly than those that are content to look on from afar.

Indeed, one of the most characteristic traits of the work of Paul Fort is this universal sympathy toward humanity. He is stirred by the mere contact of human beings; he knows their joys and sorrows, and he sings of them in his verse. However, though he is not blind to the wild pleasure of simply existing, to all the beauty scattered through life, he sees with equal clearness the tragic side. Take, as an example, this delicate "Ballade au Hameau":

Cette fille, elle est morte, est morte dans ses amours.
Ils l'ont portée en terre, en terre au point du jour.
Ils l'ont couchée toute seule, toute seule en ses atours.
Ils l'ont couchée toute seule, toute seule en son cercueil.
Ils sont rev'nus gaîment, gaîment avec le jour.
Ils ont chanté gaîment, gaîment: chacun son tour.
"Cette fille, elle est morte, est morte dans ses amours."
Ils sont allés aux champs, aux champs comme tous les jours. . . .

Many of Paul Fort's poems singing of the life of the peasant or the mountain shepherd are touched with a tinge of sadness. It is, however, his more strictly individualistic verse, where he boasts that to him *nihil humani alienum est,* which is the truest expression of his buoyant optimism. There he laughs with the rising dawn, and all that comes his way during the passing hours is inspiration

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for the joyous music of his song. Yet in spite of this width of sympathy he rests essentially individual—he embraces all, but is never embraced by all. He stands and cries welcome to every breeze that blows upon him, but never does he for one moment forget that the center of the commotion is his own personality. His is the individualism of Walt Whitman, glorying in his own own strength and stature, yet glorying, too, that he shares it with humanity as a whole. And, further, this great love for life, wherever it may be found, is for the poet the true way of letting rays of happiness fall across the darkened hearts of others.

> Si tu sais méditer et voir, tout devient clair à ta bonté,
> Mais si tu sais aimer la vie partout où tu la rencontres,
> Tu sauras éclairer la nuit des âmes les plus profondes.

To extend this sympathy to all human beings, to know the careless laughter of the child, and not be ignorant of the tear wrung from the eyes of the man—this for Paul Fort is taking of the fullness of life and accepting the greatest wealth she has to offer.

> J'ai le cœur enfant,—de quelle profondeur!
> Qui donc le saurait? Je ne le sais moi-même.
> Ce que je sais seul, j'aime celui qui m'aime.

Or again:

> Mort! le vent pleure autour du monde. Vie! autour du monde le vent rit,—Aimons-nous vite, aimons-nous tous, dépêchons-nous, le vent nous pousse.

If we pass to the nature poems, which are profusely scattered through his works, we notice the same universal sympathy extended to the material world. The volume of *Ballades* entitled "*Forêt-Plaine-Mer*" contains the largest number of these poems. They render, perhaps too obviously, the idea of a series of impressions where just enough effort has been given to catch the last glimpse of a fleeting emotion. The sketching note-book is too palpable; and in consequence the volume lacks depth of feeling.

> Quelle douce mer, le vent et l'air bleu. O l'écume bleue des vagues de l'air, à la nuque, aux tempes, au front de la montagne, noyée jusqu'aux yeux.

This verse of pure description, charming as it is in itself, loses that charm in constant repetition; and when poem after poem is little more than a series of images, a chaplet of passing emotions stirred by the breeze playing across the face, we are conscious of a certain insufficiency.

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However, we would not suggest that this is all that the nature poetry of Paul Fort can give; but we cannot leave these purely descriptive poems without noticing the strength and beauty of his picture, when now and again with a sure hand he paints the vision which rises before his eyes:

> L'impression est grave et l'âme se recueille lorsqu'on voit au lointain la plaine chargée d'arbres lever, comme en un coup de vent, sa large vague jusqu'au ciel, où s'égare l'écume bleue des feuilles.

Or notice the delicate charm of this hymn sounding the advent of spring:

> Lorsqu'au premier soleil la terre frémissante a vu ses germes s'élever vers le jour, et que tous ses sommets ont senti sur leurs pentes l'herbe les caresser de ses mains de velours,
>
> les clochettes ont ravi le réveil des villages blottis sous les vapeurs tremblantes des vallées, les troupeaux ont blanchi l'air bleu de la montagne et les souhaits des clochers ont suivi les bergers.
>
> Le vent chargé d'aurore a balayé les brumes et le soleil, aux lèvres, a doré les pipeaux. Le jour a descendu blancs torrents qui fument, quand les troupeaux montaient vers un azur nouveau.
>
> Sous les glaciers jetant leur sources violettes, la montagne semblait couverte de rubans, et le son des pipeaux et le bruit des clochettes faisaient de la montagne le hochet du printemps.

Yet if the greater bulk of Paul Fort's nature poetry is descriptive, the more important never loses touch with the soul of man, for his moods are in harmony with the moods of nature, who responds, as only nature can, to the cry of the human voice trembling with joy or pain. There is a unity which binds the whole, and the same rhythmic laws govern the life of both:

> La cerise commence à rougir, mon cœur à n'avoir plus de peine, et les lavandières à rire le long l'Oise et de la Seine.

Nature to the poet is essentially alive; the universal spirit is imminent and penetrates her whole being:

> Des lointains la montagne était un doux visage, la roseur des villages accentuait ses plis, et son vivant sourire et son vivant langage étaient l'œuvre de Dieu et des hommes unis.

So approaching the mountain slopes decked in the first glory of spring, he feels well up within his breast a kindred sympathy:

> Quand je m'approchai d'elle, ce fut une prière qui monta de mon cœur vers ce rêve divin, et pardonnant au ciel les haines de l'hiver, j'allai tremper mon cœur aux sources du matin.

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The attitude of Paul Fort toward the natural world is not simple pantheism; his conception is that of the human soul mingling with nature, and then together rising toward the Soul of All. God is the magnet which attracts everything to Himself. Nature and Man in one chant of joy mount to lose themselves in the Infinite. The spirit of God and of the Universe do not of necessity form one spirit, but that unity is the natural desire of man and the material world. It is here Paul Fort differs from the pantheist. Now there is separation, then will there be union:

> Les *parfums, le zephyr, les cloches et les chants enveloppaient* mon âme et la portaient à Dieu!

This sense of kinship with nature is felt in the constant harmony of which our poet sings as existing between man and natural phenomena. With the wind he races along the mountain ridge; he lies on a bed of autumn leaves in the forest and hears the trees murmuring their dirge; he glides into the clear, cool water of the stream and listens to its babbling song. So Nature in his verse is personified, and the poet draws frequent analogies between her moods and the joys and sorrows of men; or he takes some scene, as that of the death of a stag, and makes it symbolize in his poem the agony of a broken heart:

> Mon cœur est désespéré—Mes amis chasseurs,
> Voyez le cerf déchiré.
>
> Avant de mourir je meurs—Vite à la curée
> L'œil du cerf se voile et pleure.

Nature for him is no implacable goddess, as for Alfred de Vigny, for example, who follows her destined course indifferent to the cry of humanity. She is not soulless, but soulful; and it is on her breast that man most willingly should lay his head; it is holding her hand that he should sing upon the mountain top; and lastly it is with her he should rise to merge himself in the spirit of God.

The technique of M. Paul Fort's poetry possesses one or two marked differences to that of his predecessors. It is printed in the form of prose, though being for the most part composed in the ordinary alexandrine of twelve feet. He uses, with general accuracy, the median cæsura, and his rhymes are often rich, though constantly he is content with a simple assonance, and also from time to time writes in blank verse.

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These various meters come directly from the popular songs of the countryside, where indeed our poet sought his inspiration. It is the music of the folk-songs that he has so skilfully used in his verse. The style is new to modern poetry, and to Paul Fort must remain the honor of giving to it an established place. If some such attempts had already been made by M. Mendès, for example, in his *Lieder,* or by M. Péladan in the *Queste du Graal,* nevertheless our poet by the infinite variety of which he has shown it is capable, by the great importance it possesses in his own work, and by the theoretical value he attaches to it, has made this style above all his own, and with it his name will always be remembered.[1]

We will limit ourselves to but one quotation. It is the dedication to his first volume of ballads:

> Ton regard est plus doux d'avoir été voilé quand tu souris d'avoir pleuré,
> et plus doux ton sourire de s'être dévoilé quand ma peine et ton âme ont dû se rencontrer.
>
> Sur mon visage en larmes a passé ton sourire, chère âme, et j'ai chanté
> de toute la gaîté naïve de ton sourire, dans toute la douceur de ma simplicité.

This system of meter lends itself with wonderful ease to every change in the poet's thought and feeling; and in the verse of Paul Fort the rhythm of the music is always in close harmony with the motif of the poem. From the chanting verse of careless gaiety to the long-drawn wail of bitter agony the poet moves with grace and power. However, where the bulk is great, as the ten volumes of ballads testify, there must be verse at times which seems crude and harsh, and indeed this effect, in the poetry of Paul Fort, is intensified by the strangeness of his imagery and the occasional brutal realism of his thought. Yet as a whole the reader delights over the variety and harmony of the verse which fills these volumes.

. . . . . .

We have attempted to sketch the main characteristics of M. Paul Fort's work, to point out those traits of sympathy which distinguish his verse, a sympathy which he extends to all persons and things that cross his way. We have in-

[1] Vid., Introduction by M. Pierre Louÿs to "*Ballades Françaises,*" Série 10.

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sisted on that kindred human feeling that is predominant in his temperament and which enables him to enter every heart. We have shown, too, the close union which our poet realizes with Nature, how she is for him a living soul ever ready to respond to the soul of man, and that their ideal is a common one; to rise together, mingling one with the other, and finally rest in the infinite soul of God.

And it will not be useless repetition to emphasize again the variety of thought and feeling which is seen in his poetry; there is, indeed, expressed a wealth of sympathy with man and the material world that is unique in modern verse; though perhaps this diffusion of sentiment is of necessity weaker and less intense than more concentrated passion.

Lastly, the rhythmic prose with the irregular rhymes, in which form the "*Ballades Françaises*" are written, claim for Paul Fort the merit of introducing a new style into French literature. Here again the astonishing variety of modulation and tone, the sinuous grace of the strophes, and the harmony realized between the thought and the expression is that which strikes the reader most keenly.

In this poetry we hear all—from the "wailful sweetness of the violin" to the gay song of the flutes and reed pipes.

J. K. Rooker.

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TRAVEL

BY LOUISE COLLIER WILLCOX

THE years that ring in changes more swiftly than ever before also immeasurably increase the ways and means of travel. So much going to and fro on the face of the earth is done nowadays, one might almost hope that taste and knowledge should become universal. The difficulty is that when only a few men traveled they were responsible for gathering moss and bringing back the material of thought and judgment. But now that all men travel no one is responsible, and if anything at all is gotten out of it it is something quite different from the old-time returns. The dangers are rather that we shall again become nomads of some sort and roam over the earth and through the air for no greater assets than distraction and spoils.

"The great architect of the world," writes a famous seventeenth-century traveler, "hath been observed not to throw down all gifts and knowledge to mankind confusedly at once, but in a regular parsimonious method to disperse them by certain degrees, periods, and progress of time, leaving man to make industrious researches and investigations after truth. . . . One day certifieth another, and one age rectifieth another. The morrow hath more experience than the precedent day, and is ofttime able to be his schoolmaster."

How much of the old observation remains to us to-day it is hard to say. Heretofore men traveled to report to other men and manners, of policies and politics, of taste and education. But to-day knowledge and taste are commercialized along with everything else in the world, and only the gaping school child is introduced to the matters which interested the old-time traveler.

Surely not since the sixteenth century has any author daringly labeled his observations of travel *Crudities*. But

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the remaining method of Thomas Coryat is perhaps not so entirely out-of-date; for meeting difficulties in finding a publisher to bring out his observations which, as he states, "were hastily gobbled up in five months' travel in France, Savoy, Italy, Rhetia, commonly called the Grisons country, Helvetia, alias Switzerland, some parts of High Germany, and the Netherlands," he took to persuading the eminent men of his day to write "panegyric verses upon the author and his book." It was he who first described umbrellas seen, oddly enough, not in England, but in Italy.

Father Montfaucon traveled to report of libraries, manuscripts, monasteries, churches, palaces. He found a great painter named Jottus (Giotto) and appreciated his painting and mentions his friendship with Dante. His comments on libraries amount almost to being catalogues.

In 1649 James Howell writes to his friend of the purposes of travel:

"Nor is it language only that you have brought home with you, but I find that you have studied men and the manners of these nations you have conversed withal. Neither have you courted only all their fair cities, castles, houses of pleasure, and other places of curiosity, but you have pryed into the very mysteries of their government, as I find by those choice manuscripts and observations you have brought with you. In all these things you have been so curious as if the soul of your great uncle, who was employed as ambassador in the Imperial Court and who held correspondence with the greatest men in Christendom in their own language, had transmigrated into you."

John Evelyn is full of beautiful landscape, historic association, rarities, and riches, and one not too sophisticated to care for the outer aspects of a place may do less well than to read the descriptions in the diary of the *Journey Through Italy* in 1644; remembering how the bricks of Siena are so well made that they look as well as porphyry itself, learning of the inexpressible beauty of the Duomo, with its large square stones of black and white polished marble or the rare pictures in the richly furnished palace of Negros ir Genoa.

Among the later eighteenth and earlier nineteenth century travelers were Goethe and Heine; Goethe recording his great longing to feel his way into a true understanding of art and his determination to concern himself only with such

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things as "lasting relations," since the form of this world passes away. But how little he realized the swiftness of this passing! It was only in 1787 that he wrote this, and yet in 1914 how vaguely men are interested in the Sistine Chapel which stimulated his yearning for eternal interests!

Heine seems a century instead of a half-century nearer to us, for Genoa, Lucca, and Verona left him still keen to discuss the foibles of men and he still yearns, rather like modern man over those who are too "healthily unknowing" to be impressed by the corpse of Rome. After all, he thinks if the beautiful corpse were not wholly dead, but just pretending for a while, and could rise up and take on life again, it would be only terrible. Let the dead past bury its dead is his motto, and let men live in the passing present.

And it is indeed to the passing present that travelers adapt themselves to-day, and the modern record of travel is really an account of the highroads. Motor travel is the only kind that is reported, and roads are of greater consequence now than history or art.

Probably futurity holds in store only books on air travel, and in future years we shall read of Cologne as seen from two hundred yards above the steeple. We shall read of the perpendicular lines of towns as seen from above when looking down into them as into an ornamented gorge. The lay of the land will be described as seen literally from a birds-eye view, with the rivers like waving ribbons, and the roads like stripes over the land.

Even then the student may turn back as now to refresh his spirit with Coryat's *Crudities,* Montfaucon's *Travels,* and Howell's *Familiar Letters.*

Louise Collier Willcox.

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MUSIC AND DRAMA

SIGNIFICANT HAPPENINGS OF THE MONTH

Charpentier's New Opera, "Julien," at the Metropolitan—Some Outstanding Characteristics of a Singular Work.

BY LAWRENCE GILMAN

RANDOM generalizations concerning art are treacherous and full of peril; yet we shall venture this (which we shall put, discreetly, in an interrogative form): Why is it that music, of all arts the one that is pre-eminently fitted to utter the unutterable, the art which is beyond all others the tongue of the inward life—why is it that this great and subtle and incomparably eloquent art is so often ineffectual, so often an awkward stammerer, when it strives to discourse of what poets and rhetoricians like to speak of as "The Ideal"? Of all the symphonic poems of Liszt, the weakest of that horizon-making series is "Die Ideale." How tedious is the long address of Hans Sachs in the last act of "Die Meistersinger" in which the cobbler-poet, whose speech elsewhere is golden, harangues the populace concerning the ideal uses of art! How commonplace is the melody which Beethoven has invented to set forth the sublime conception underlying the final movement of the Choral Symphony!—a melody which should have been nobly ecstatic, of a high and august beauty, but which yields, instead, only an impression of smug and bourgeois piety, as cheerfully banal and unexalted as any of the lesser inspirations of the hymn-book. And how suddenly the eloquence of Richard Strauss ceases and determines when, in the concluding section of his "Tod und Verklärung," he would denote the soul's attainment of its ideal! It may be reported that Herr Strauss, being wickedly intent upon making a living out of his art—a most reprehensible purpose on the part of a composer, though

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poets and painters and novelists and sculptors and architects may pursue it without accusation of turpitude—could naturally not be expected to succeed in dealing with The Ideal as an expressional motive. But that does not precisely fit Beethoven's case, or Liszt's, or Wagner's. The inquisitive music-lover will not find it difficult to extend our inquiry, which we cannot here pursue further; we have suggested it merely as a preface to a few remarks concerning a current and conspicuous example of the thing we have been speaking of—namely, M. Gustave Charpentier and his "poème lyrique" (as he calls it), "Julien."

"Julien," which the Metropolitan Opera House has just added to its repertoire, has been widely talked of as a kind of sequel to "Louise." It is nothing of the sort. Save that the two leading characters are named Julien and Louise, and that they are lovers, and that Julien is a poet, this opera is no more a sequel to "Louise" than it is a sequel to "Les Huguenots." It is really an elaboration of an earlier work of Charpentier's, a "symphony-drama" called "La Vie du Poète," a title which is identical with the sub-title of "Julien." The score of this earlier work is not accessible; but it is said that in concocting "Julien" Charpentier has helped himself liberally to the music of "La Vie du Poète," and that the "symphony-drama" of 1892 constitutes more than one-half of the "poème lyrique" of 1913.

In "Julien," Charpentier is again his own librettist, as he was in "Louise." It is not easy to see how the admirable dramatist of "Louise" can have supposed that the rambling, confused, inchoate allegory which he has contrived for "Julien" was fit matter for the stage. We are free to confess that we do not know what it is all about. Charpentier tells us that he has tried to show us "an artist passionately taken with an ideal, and continually in collision with the realities of existence." A great theme, indisputably; and if Charpentier had translated it into terms of the drama we might have had from him a powerful and moving work. But "Julien" is void of drama.

Julien, a poet, dreams a dream. In this dream we see him worshiping in the Temple of Beauty, with Louise at his side; repulsing a lovable Slovac peasant-girl who offers to assuage his dejection; ministered to by his grandmother, and cursing God on a storm-tossed seacoast in Brittany;

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carousing in a Montmartre carnival, consorting with a drunken prostitute, and finally dying at her feet.

That is all that emerges to the sense of the casual observer. To learn more, one must study carefully the printed text of the libretto; and here again one is baffled, for the text itself requires interpretation. There is much talk of The Ideal, of the poet's dedication to it, of his falling away from it, of his frustration. In sum, the drama (though it is absurd to call it that) exhibits to us the progressive deterioration of an artist who has consecrated himself to the worship of The Ideal and to the uplifting of humanity through its application. His downward course is shown through various stages of decline—from " Enthusiasm " (Charpentier has characterized each of the four acts of his libretto), through " Doubt " and " Impotence," to final " Intoxication." Just why he deteriorates in this deplorable manner is not made clear—least of all by the allegorist himself. Some say that it is because of Pride and Reason; others say that it is because of " sensuality."

Three scenes of this piece, Charpentier tells us, are dream pictures, and five are supposed to represent actual occurrences. " The only real difference between one kind and the other is found in the proportion in which the real and the marvelous have been mixed. Thus have I tried to set forth, just as I did in the second act of ' Louise,' what our daily life presents incessantly in the way of mysterious suggestions, of strange surprises, of peculiar forebodings. Save in the prologue, entitled ' Louise,' the various figures surrounding Julien are external manifestations of his state of mind rather than real, living beings. Some of them are nothing more than reflections, vitalized for the moment, of an aspiration, a regret, a weakness, a recollection. Others assume more lifelike form, moving and acting, as it were, according to human laws. But the spectator has seen them taking shape in the imagination of the protagonist—the one hero of the drama, to be quite literal—and he will grasp the fact easily that in reality they dominate, after the manner of superior instincts, a plot to which they apparently submit—a plot which is nothing more nor less than a symbolical exposition of the story of the inner life."

But this does not help us in the least. It is almost impossible to distinguish the allegorical from the real, the " dream-pictures " from the " actual occurrences," so obscure are

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Charpentier's intentions; so that the hearer and spectator is left dangling helplessly in the air between the Temple of Beauty and the coast of Brittany, not knowing whether he is to be caught up into a dreamer's paradise or dropped upon an actual firmament.

There is far too much of vague and flaccid fantasy in this curious concoction of Charpentier's, too much that is aimless, incoherent, vacuously rhapsodic. Witnessing it, one echoes that supplication of him who was both poet and thinker: "More brain, O Lord, more brain!" Charpentier never comes to grips with his subject—for we do not, of course, dispute the dignity and importance of his theme. He approaches it as a sentimentalist and rhetorician, not as a tragic comedian; and one remembers uneasily what Matthew Arnold said long ago of the incapacity of the French genius for "seriousness in the higher sense, for what Virgil called *virtus verusque labor*." This is not surprising. What *is* surprising is the absence in Charpentier of the familiarly extolled French "clarity," the French "logic," the French "precision."

A greater composer than Charpentier might have redeemed this murky and futile allegory by music of transfiguring passion, of uplifting beauty. But Charpentier has been unequal to such an achievement. He was never more than a second-rate music-maker, at best; and who shall say that he was not, in this case, handicapped by that strange blight which, as we noted at the start, falls, seemingly, upon so many of those composers who would discourse in tones of Idealism and The Ideal? Yet there is much in his libretto which might have stirred noble and ecstatic music in a master of inspired utterance. The composer of "Parsifal" might have made the temple of Beauty resound with (in Swinburne's magnificent phrase) "the sound of swords and harps in heaven."

The production of the work at the Metropolitan is remarkable for splendor of setting, for general adequacy and fitness. It would be excessively generous to say that Mr. Caruso is happily cast as the self-torturing, Hamlet-like Julien. It is a rôle from which Jean de Reszke might have evolved an unforgettable creation; but the character lies beyond the range of Mr. Caruso's expressional ability—he was not cut out by Nature for rôles of this type. Yet he puts much sincerity into it, he releases much emotional energy,

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and he sings the music very beautifully. Miss Farrar's assumption of her widely dissimilar quintet of rôles—Louise, Beauty, the Young Girl, the Grandmother, the Grisette—is an astonishing *tour de force.* She characterizes each part sharply and vividly, with rare histrionic skill; and as the Young Girl of the second act, whom she discloses as an apparition of enamoring sweetness, she is delightful beyond measure; Miss Farrar has never done anything so reposeful, so finely restrained, so hauntingly lovely, as this exquisite impersonation. Though there are more than a score of other characters in the piece, they count, individually, for very little; Mr. Caruso and Miss Farrar sustain most of the interpretative burden—saving the chorus, which plays a large and significant part in developing Charpentier's conception.

When all is said, we are far from being insensible to a certain pathos that is implicit in this elaborate and disappointing work—the pathos that envelopes all those who love with passion beautiful things; who try to speak, however haltingly, however brokenly, of those mysteries which are beyond speech; who are dreamers of dreams; who have seen, and cannot forget; yet who are not without consolation: for they know that "there will come a time when it shall be light, and man shall awaken from his lofty dreams, and find his dreams still there, and that nothing has gone save his sleep."

LAWRENCE GILMAN.

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THE BOOK OF THE MONTH[1]

BY F. M. COLBY

For some years past we have turned to a certain brilliant group of English writers whenever we wished to be excited or amused on the subject of politics in general. Our own country has raised each year a fair crop of scholarly plodders, single-thought enthusiasts, muckrakers, and system-worshipers, and I suppose one might have found in them just as many ideas as in the writings of Shaw, Wells, Belloc, Chesterton, Kettle, Wallas, and a dozen others, if one had cared to look for them. Sheer ideas, naked or badly clothed, are, I presume, as plentiful in the political writings of this country as of any other. But an idea *plus* an ingratiating personality is rarely to be found in an American book on a political subject. It has often struck me as very strange that American political thought was so seldom accompanied by any signs of literary animation. As a citizen I am afraid of an American anarchist, lest (by a grim irony) he may mistake me for a prosperous person and blow me to pieces. As a reviewer I am afraid of him for the precisely opposite reason—namely, lest he may induce in me a peaceful, natural sleep. The heat of our political passions cools unaccountably between book covers. Hence terms expressive of quite violent political actualities often come to the mind laden, as you may say, with drowsy associations. I am perfectly aware, for example, that Referendum is not the name of a new coal-tar product, of which two powders taken at bedtime are a sure thing, and better for you than your whisky and water. On the contrary, I know it for a very lively matter over which heads have been cracked and may still be cracking. I can even imagine places and circumstances in which I myself might perish nobly, fighting for the

[1] *A Preface to Politics.* By Walter Lippmann. Mitchell Kennerley. New York, 1913.

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Referendum or against it. But the word is full of that narcotic reminiscence, from the constant humming of the pros and cons.

Now comes Mr. Walter Lippmann's *Preface to Politics*, concerned with the same themes, traversing the same ground, as many others, and yet with the breath of life in it. Therein lies its value; not in any specific rules of guidance. He says he has attempted to "sketch an attitude toward statecraft."

> I have tried to suggest an approach, to illustrate it concretely, to prepare a point of view. In selecting for the title *A Preface to Politics*, I have wished to stamp upon the whole book my own sense that it is a beginning and not a conclusion. I have wished to emphasize that there is nothing in this book which can be drafted into a legislative proposal and presented to the legislature the day after to-morrow. It was not written with the notion that these pages would contain an adequate exposition of modern political method. Much less was it written to further a concrete programme. There are, I hope, no assumptions put forward as dogmas.

His illustrations are very concrete indeed, and taken from the news of the day before yesterday, and they are manifestly tinged with his own prepossessions and prejudices. The good and bad personages in public life are distinguished very swiftly and despatched in a telling phrase or two. He hates all "routineers," for example. By routineers, he means the people who follow precedent and never create one, who go on winding the red tape that they find, who think that the "heaven above them is nothing but the roof." Senator Lodge is a sad example of the routineer. No new perception of popular need will ever dawn on Senator Lodge, he says, and his "manners have that immobility which comes from too much gazing at bad statues of dead statesmen." He hates also the typical university professor and takes as an "extreme example" Dr. Nicholas Murray Butler, who in

> the space of six months wrote an impassioned defense of "constitutional government," beginning with the question, "Why is it that in the United States the words politics and politician have associations that are chiefly of evil omen?" and then to make irony complete, proceeded at the New York State Republican Convention to do the jobbery of Boss Barnes. What is there left but to gasp and wonder whether the words of the intellect have anything to do with the facts of life?

Taft also was an utter routineer, who even denied himself the leadership of which he was capable lest it might interfere with the automatic running and the "balance" of the

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Government. Roosevelt, on the other hand, is a type of the genuine political inventor.

> The hostility against men like Roosevelt, La Follette, Bryan, Lloyd-George, is enough to make an observer believe that the rich of to-day are as stupid as the nobles of France before the Revolution. . . . Statesmanship would go out to meet a crisis before it had become acute. The thing it would emphatically not do is to dam up an insurgent current until it overflowed the countryside. . . . When Roosevelt formed the Progressive Party on a platform of social reform he crystallized a deep unrest, brought it out of the cellars of resentment into the agora of political discussion. He performed the real task of a leader—a task which has essentially two dimensions. By becoming part of the dynamics of unrest he gathered a power of effectiveness: by formulating a programme for insurgency he translated it into terms of public service.

Bryan has been a voice crying in the wilderness, but unable to understand his own message, a prophet without power of self-criticism. "No bracing critical atmosphere plays about his mind; there are no cleansing doubts and fruitful alternatives." He merely expresses "confused emotion."

> Roosevelt has seemed to me the most effective, the most nearly complete; Bryan I have ventured to class with the men who, though important to politics, should never hold high executive office; Wilson, less complete than Roosevelt, is worthy of our deepest interest because his judgment is subtle where Roosevelt's is crude. He is a foretaste of a more advanced statesmanship.
>
> Because he is self-conscious, Wilson has been able to see the problem that any finely adapted statecraft must meet. It is a problem that would hardly occur to an old-fashioned politician: "Though he [the statesman] cannot himself keep the life of the nation as a whole in his mind, he can at least make sure that he is taking counsel with those who know." . . . To think of the whole nation: surely the task of statesmanship is more difficult to-day than ever before in history. In the face of a clotted intricacy in the subject-matter of politics, improvements in knowledge seem meager indeed. The distance between what we know and what we need to know appears to be greater than ever. Plato and Aristotle thought in terms of ten thousand homogeneous villagers; we have to think in terms of a hundred million people of all races and all traditions, crossbred and inbred, subject to climates they have never lived in before, plumped down on a continent in the midst of a strange civilization.

From these citations it may appear that he has merely applied to politics the methods of literary impressionism, and there is, I admit, a good deal of mental slap-dash to be found in the volume from first to last. He has, for example, swallowed whole and not digested too many of the "visions" of Mr. H. G. Wells. And he is apt to describe as "dynamic"—a word of which he is inordinately fond—instances of mere verbal jumpiness, as when Mr. G. K.

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Chesterton makes a sentence end in a manner not expected by the readers of the London *Sketch,* and then says it is a paradox emerging from the hidden wells of truth. He has read too much of the hop-skip-and-jump fellows, and his style is too streaked with their enormous generalities.

Yet it is true that "our political thinking needs the infusion of contemporary insights," needs also the vivacities and vagaries of the literary mind, and it is a pleasant thing to see a literary man going into politics with all his sins upon him. It is an unwonted spectacle in this country where we are accustomed to see, rather, the process reversed —politics going into the literary man. Mr. Lippmann has proven that a writer even after becoming political may remain ingenious, witty, fanciful, and personally distinguishable from the material he has consumed. He is "unsafe," of course, in all "practical" senses. I suppose he would make an abominable alderman. That, however, is beside the question, for he is not trying to lead the mind to any particular point, but merely to set it in motion, for he has seen that the danger of American political discussion was not so much that it made one think wrongly as that it did not make one think at all.

It has been assumed in this country that politics are a very jealous god. We have taken it as a sign that a man was fit for them merely because he was fit for nothing else. A British writer recently complained that Parliament contained only lawyers and politicians and was impervious to any new idea. Yet from our point of view the personnel of the British Government has by contrast seemed astounding in its variety. Every sort of unpractical creature, from a mousy old classical scholar to the lightest possible literary character, has found its way into it and has often remained there without disgrace. And of men distinguished for other things than legal, political, or business abilities, one could mention in a short interval names like Salisbury, Balfour, Morley, Bryce, Lecky, Curzon, Dilke, Rosebery, McCarthy, and a dozen others. During the same period in this country we should very likely, after naming with some confidence John Hay and Theodore Roosevelt, have had to stammer with a painful blush the name of Ignatius Donnelly. Present comparisons would be almost equally odious, but there is no need of going further in so plain a matter as our disadvantage in political discussion. The champions of our bad

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causes have added insult to injury by advocating them in language even worse. If it is true, as Chateaubriand said, that a couple of phrases will always intoxicate a Frenchman, they are at least good phrases as a rule. We generally do our tippling on the bad ones.

> Behold a republic resting securely upon the foundation stones quarried from the mountains of eternal truth. . . . Behold a republic proclaiming to the world the doctrine of equality. Behold a republic in which civil and religious liberty stimulate all to earnest endeavor. . . . Behold a republic standing erect while empires are bowed down. Behold a republic increasing in population.

You may not like to think it, but that was a very powerful bit of political writing in its day.

For these reasons the present volume seems by contrast a remarkable achievement, and its writer should be praised first of all on grounds that may seem rather negative. He has not written of American politics in the customary manner, through the nose. The above citations hardly do justice to the spirit of his work. His main contentions are that,

> instead of tabooing our impulses, we must redirect them. Instead of trying to crush badness, we must turn the power behind it to good account. The assumption is that every lust is capable of some civilized expression. . . . Politics is not concerned with prescribing the ultimate qualities of life. When it tries to do so by sumptuary legislation, nothing but mischief is invoked. Its business is to provide opportunities, not to announce ultimate values; to remove oppressive evil and to invent new resources of enjoyment. With the enjoyment itself it can have no concern. That must be lived by each individual. In a sense the politician can never know his own success, but it is registered in men's inner lives, and is largely incommunicable. An increasing harvest of rich personalities is the social reward of fine statesmanship, but rich personalities are free growths in a cordial environment. They cannot be cast in molds or shaped by law. There is no need, therefore, to generate dialectical disputes about the final goal of politics. No definition can be just—too precise a one can only deceive us into thinking that our definition is true. Call ultimate values by any convenient name, it is of slight importance which you choose. If only men can keep their minds freed from formalism, idol worship, fixed ideas, and exalted abstractions, politicians need not worry about the language in which the end of our striving is expressed. For with the removal of distracting idols, men's experience becomes the center of thought. And if we think in terms of men, find out what really bothers them, seek to supply what they really want, hold only their experience sacred, we shall find our sanction obvious and unchallenged.

Elsewhere he puts the matter more concretely:

> When politics revolves mechanically it ceases to use the real energies of a nation. Government is then at once irrelevant and mischievous—mere

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obstructive nuisance. Not long ago a prominent Senator remarked that he didn't know much about the country, because he had spent the last few months in Washington. It was a profound utterance, as any one can testify who reads, let us say, the *Congressional Record*. For that document, though replete with language, is singularly unacquainted with the voices that agitate the nation.

He believes that political thinking takes too little account of human diversity; that the *politikon zöon,* or " sober, safe, thinking citizen " of current discussion is an abstraction, quite on a par with the " economic man " of the Manchester school; that reformers look for salvation by the mere substitution of one bit of mechanism for another; that political leadership involves experiment; that the fear of violating the Constitution is not the beginning of wisdom; that political issues should correspond to the actual issues that divide men. His book is an attempt to find a philosophic basis, or, if you prefer, an excuse, for the continuous expansion and renovation of political machinery in response to the changes in society. In short, he believes what several millions of his fellow-countrymen believe; but when it comes to the expression of his beliefs and the application of them the difference between him and the usual political writer or leading citizen is enormous. Apart from a very humane and reasonable criticism of the Report of the Chicago Vice Commission, he does not try to set people right on any of the actual political questions of the moment. He accomplishes the more difficult feat of putting them in the mood for inquiry. And I think this justifies him, although he is manifestly afflicted with the kinetomania of progress-worship of his day, and believes that Christianity and almost every other old thing are " failures."

F. M. Colby.

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NEW BOOKS REVIEWED

THE REFORMATION IN GERMANY. By HENRY C. VEDDER. New York: The Macmillan Company, 1914.

The feature of Professor Vedder's book which distinguishes it from earlier stories of the Reformation is its attempt to treat the subject from an economic point of view, or at least to recognize fully the part played by economic forces in the evolution of the movement. Of course, no more than in the case of slavery and the Civil War, is it possible to deny large efficacy to the moral and theological factors of the Reformation, and the historian is led by a sort of irresistible attraction to attribute, in terms, the greatest influence to the views and character of Luther, even when these terms require almost immediate qualification. "Luther," writes Professor Vedder, "bestrode Europe like a Colossus, dwarfing all men of his time, because of what he was, while Charles V. played a great part in the history of the age mainly because of what he had inherited. We have outgrown Carlyle's 'great man' theory of history, but it is still mankind's unconscious tribute to the greatness of Luther that, though in reality but a chip upon the current of events, he so stamped his personality on the men of his time and has so dominated the imagination of generations following, that most men still think and speak of him as the creator of the Reformation." What Professor Vedder gives us, in effect, is a new Luther—a Luther conditioned by social, economic, and political conditions, a reformer led by opportunity and forced on by events, yet much resembling the traditional Luther in the power which he personally exerted at critical points. His activities are shown in a framework of world politics; less clearly are emphasized the remoter economic influences of the time, for next to Luther's character and theological views, the ups and downs of the political game inevitably take precedence.

The book's prime excellence seems to lie, however, in the author's power of interpreting character, and in the deftness with which he traces the progress of an idea, whether in an individual or in society. Luther, as portrayed by him, is a living personality; and if the absence of hero-worship disappoints us, Professor Vedder's psychological tact gives more than due compensation in human interest. Again, the real issues of the early theological controversies are kept before us with surprising clearness, and the disputations of Luther with his adversaries become for us, when we remember their ultimate political significance, almost as exciting as the Lincoln-Douglas debates. The growth of the Church's doctrine of indulgences is

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traced in such a manner as to retain the warmth of human plausibility in it, and the same power to keep blood circulating in abstract thought is shown in the discussion of the reformation as related to the revival of learning. The vital mixture, during the earlier period, of these two tendencies in men's minds is strongly felt, while, by accurate distinctions between them we are prepared for the eventual separation of the Humanists and Luther's quarrel with Erasmus.

Of the influences conditioning Luther's career only a brief résumé can be given. Professor Vedder lays stress upon the power of the printing-press—a force already well in operation at the beginning of the Reformation—and thinks that the anecdote of Luther's discovering the Bible relatively late in his career, though very likely true, is far from proving a general, profound ignorance of the Scriptures. A characteristic of the times that has to be taken into account along with the widespread revolt against intellectual authority is the growth of national spirit during the sixteenth century—a spirit which in the time of Charlemagne and Otho and the Holy Roman Empire would have been "unnatural and ruinous," since it would have made the divided and mutually hostile Christian states an easy prey to the Moslems and Hungarians. As it was, the more or less imminent threat of Turkish invasion had its effect in determining the course of the Reformation. The new movement in the Church thus followed the political movement of Europe toward national growth, and the resistance against the Popes was strengthened by the fact that they had come to be recognized as the representatives of Italian unity, while their claims of tribute and tithes seemed like the laying of a tax upon Germans for the benefit of Italians. Of the demands made by the Protestants at the Augsburg Diet, which included "the Lord's Supper in both kinds, the marriage of the clergy, the omission of the canon in the mass, and the retaining of the confiscated Church property," the author calls the last the crux of the whole situation. To the free cities and to the spirit of the trade guilds in them, he attributes a large influence, though he points out that the movement started at Lübeck for the union of the maritime towns of the Baltic with the commercial cities of southern Germany, came a century too late, at a time when the opening of new trade routes had changed the direction of commerce. Of course, at all times the Emperor Charles V., however blind he may have been to theological distinctions, was aware of the political bearings of the controversy and helped to convert it into a political and economic struggle.

On the whole, while the author does full justice to the Reformation as "an unspeakable religious conviction struggling to speak itself," he leads us to see the work of the reformers in the light of those opportunities, which at once led them on and limited their action. Their inconsistencies and mistakes seem explicable reactions on the part of men confronted not merely by theories, but by conditions as well. In Professor Vedder's narrative it is sometimes difficult to see the bearing of strictly economic causes through the shifting of political and personal motives; but his attempt to describe such a complex phenomenon as the Reformation, not from one point of view exclusively, but from all, turns out to be remarkably successful. Moreover, he fully succeeds in his avowed attempt to write a readable book. His accounts of political persons and events are racy within the limits imposed by accuracy and decorum, and always he expresses himself with an ease and pleasantness seldom found in historical writing nowadays.

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THE AMERICAN DOCTRINE OF JUDICIAL SUPREMACY. By CHARLES GROVE HAINES. New York: The Macmillan Company, 1914.

Strictly uncontroversial in tone, Professor Haines's sober résumé of historic facts and opinions, relating to the time-honored doctrine that American courts may declare laws invalid, will be of real use to those who are desirous of forming an impartial opinion upon a much-debated question. Historically the point at issue is whether the practice of judicial supremacy is the result of logical development or of usurpation. Reviewing a long series of Colonial, State, and Federal precedents, Professor Haines concludes that the theory of judicial usurpation cannot be successfully maintained. Although no weight can be attached to the contention that the mere fact of the Constitution's being in writing necessarily sets up the judiciary as its guardian and interpreter, it seems clear, nevertheless, that neither the makers of the Constitution nor the members of either political party subsequent to its adoption really doubted that such power was conferred upon the courts.

That the point should have been taken for granted on all sides is shown to be natural in view of previous familiarity with applications of Coke's principle of judicial supremacy, of the principle of an "overruling law of nature," and of fundamental principles embodied in the great English charters of liberties. "Although there are but few cases recorded in which Colonial courts refused to enforce laws because repugnant to their charter or the laws of England, a reasonable interpretation of the evidence available appears to favor the view that restraints upon Colonial legislatures were enforced by the English courts of last resort, and in exceptional cases by Colonial courts." Although it is possible to exaggerate the influence of such precedents, still there can be little doubt of the general familiarity of the colonists with the principle implied in them, since "the colonies, organized originally under charters granted to trading companies, were accustomed to have these charters construed, and to have the corporation acts set aside as *ultra vires* through ordinary judicial process." As to the sentiment of the members of the Philadelphia Convention, the author gives prominence to the views of Professor Beard, who, as the result of detailed analysis, has reached the conclusion that the members of the Convention must have been fully aware that most of the leading members regarded the nullification of unconstitutional laws as a normal function. A further argument is drawn from the reception of the Kentucky and Virginia Resolutions in 1798. The fact that when these were submitted to the legislatures of the various States, those of the Northern States in effect asserted the principle of judicial nullification, while the legislatures of the Southern States took no action, is regarded as a practical indorsement of that principle at a time when the Federal courts as yet hesitated to affirm it. And, in fact, the course of history seems to make it difficult to maintain that Marshall in his famous opinion on the case of Marbury *v.* Madison did more than formulate and announce a principle already generally understood and accepted.

In this case, as in so many others, the historic method teaches us the folly of dogmatic assertion, revealing the series of gradual and almost imperceptible stages that usually lead up to the changes which seem at first sight sudden and violent. To follow the evolution of the doctrine of judicial supremacy under Professor Haines's guidance, through a series of

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interesting cases is an agreeable mental exercise, and it is hard to resist the conclusion that this evolution was perfectly natural, if not inevitable. But an evolution, however legitimate in its origin and logical in its course, may eventually go too far, thus losing its adaptability to the conditions surrounding it. That there has been in recent times a marked and unforeseen increase in the scope of judicial review, the author shows by a second series of cases, and to these are joined criticisms of the doctrine of judicial supremacy by justices, labor leaders, Socialists, and others. In the end, Professor Haines leaves the whole question open, merely drawing from his review of the facts the suggestion that "a restriction of the realm within which laws may be invalidated, an easier method of changing the fundamental law, and a less hostile attitude on the part of lawyers and judges toward legislative innovations will remove the chief ground of complaint against the judiciary with respect to what is termed judicial legislation."

CRIMINOLOGY. By BARON RAFFAELLE GAROFALO. Boston: Little, Brown & Company, 1913.

In urging that "the dominant theory and the judicial law which has conformed itself thereto seems to exist for the purpose of protecting the criminal against society rather than society against the criminal," Baron Garofalo expresses concisely the ground of a considerable and growing discontent with criminal law and procedure. What is needed, however, is, in his estimation, not merely greater severity, "effectiveness," or simplicity, but a principle that will enable us to distinguish the real criminal from the mere lawbreaker. Nobody doubts that the real criminal—the man devoid of moral sense and incapable of adaptation to civilized society—exists. The difficulty lies in clearly and justly distinguishing the type. Here anthropology helps us but little. It is true that among extreme criminals certain physiological characteristics are more prevalent than among honest men; but there is no absolute physical difference between the two classes. If criminal anomaly be due to a flaw in the physical organism, the fundamental cause must lie in the molecular structure of body and brain, and, as the author remarks (quoting Benedikt with approval), "we are far from possessing an anatomy of molecules." Nor does Lombroso's theory of atavism carry us further; for the most that can be asserted with confidence is that "the criminal has certain regressive traits." He is *atypic* rather than *atavistic*, and his anomaly is such as cannot properly be attributed even to our remotest ancestors. Anthropology, then, merely confirms the belief of common sense that the "natural born" criminal does exist. Social statistics, as interpreted by Baron Garofalo, tend the same way, showing that economic conditions, the relative prevalence of the use of alcoholic liquors, and like influences, do but determine the form of criminal action without appreciably affecting its amount. Just as by means of hypnotism it is extremely difficult, if not impossible, to make an honest man commit a crime, so, the author contends, no man is a murderer when drunk who is incapable of murder when sober.

The fundamental necessity, therefore, is a clear and workable distinction between the "true" or "natural" criminal and the offender whose character shows no real abnormality. In endeavoring to establish such a distinction Baron Garofalo arrives at a conclusion which amounts practically to this: that every person guilty of an atrocious crime is *ipso facto* a "true"

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criminal. "Not only is it impossible for a normal man to be a murderer, but it is equally impossible for him to be an incendiary, a forger, or a thief." This thesis, pressed home in a variety of ways, considered in every aspect, and illustrated by actual cases drawn from the author's experience as a magistrate, constitutes the core of his book.

Baron Garofalo's way of looking at the matter recommends itself in the first place by its consequences; viewed in a purely pragmatic light, it seems obviously right. By eliminating the true criminal promptly, society would protect itself from repetitions of crimes which invariably follow when the criminal after a period of imprisonment is allowed to go free, on the theory that he has "paid his penalty." Much would also be gained through the abandonment of impossible attempts at reformation of character. No excessive severity or shocking violation of the ordinary conceptions of justice would necessarily result from the application of Baron Garofalo's principle; for in the case of manslaughter or assault he makes it plain that the act is not to be considered criminal in the strict sense, unless the provocation that led to it is such as no normal man could possibly consider adequate. No rights would be infringed, except perhaps those of a rather academic sort. Again, since the offender devoid of moral sensibility is regarded as the criminal *per se*, the inconvenient doctrine of "moral insanity" would be completely done away with, while insane persons who commit crimes would be treated as at present. Moreover, the system of punishment proposed seems effective in principle, whatever objections may be raised as to its details. Its object in every case is either the elimination of the criminal or substantial reparation for the loss occasioned by the crime. A leading feature of the system is that it makes provision for the case of those whose misdeeds are in part the result of local conditions. Such offenders, the authors of "endemic" crimes, are to be reformed by a change of environment. For murderers, the death penalty is to be retained. "Violent criminals, instinctively disposed to bloodshed, and such habitual thieves as have been proved incapable of assimilation," are to be marooned. For criminals of a less dangerous class internment in an overseas penal colony either for life or for an indeterminate period is the punishment advocated. In the case of those whose misdeeds do not necessarily brand them as criminals in the accepted sense, reparation through forced labor is regarded as the most logical and effective mode of repression.

The author, however, is not content with basing his system upon expediency or social necessity; he seeks for a satisfactory ethical foundation. As a positivist thinker, he takes it for granted that all ethical standards are developments of certain "sentiments," such as the sentiment of pity and the sentiment of justice, and that their scope and authority are defined by the strength and diffusion of those sentiments among civilized men today. He who is totally lacking in the sentiment of pity is beyond the pale; not only must he be eliminated as unfit to survive, but also we are morally justified in taking his life because we cannot regard him as a fellow-being. Baron Garofalo thus, in effect, maintains two separate, or separable theses. With the first—the thesis that the primary function of the law is to protect society—few will be inclined to quarrel. The second, which practically identifies ethics with the social requirement, will hardly be accepted by moralists of other schools. None the less, the consistency of the argument, the author's willingness to conform theory to fact, and his avoidance of extremes, make it more

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nearly possible to accept his teaching *in toto* than is usually the case with books upon criminology and allied subjects.

ACROSS UNKNOWN SOUTH AMERICA. By A. HENRY SAVAGE-LANDOR. Boston: Little, Brown & Company, 1913.

As a prodigious adventure, filled with endless hardships, nerve-wracking strains, and nightmarish accidents, few achievements of exploration in any part of the earth can equal Savage-Landor's journey through the wildest part of Brazil, a vast region of almost unexploited resources, which has been practically unknown even to the Brazilians themselves. Whatever the scientific importance of the expedition, it is the sheer pluck and endurance it required which impresses us most, first and last. One conceives of the strain of the journey as something like the tension of an altitude flight in an aeroplane indefinitely prolonged. Difficulties of every variety were encountered—except the much-bruited dangers from Indians and wild animals—but the greatest difficulty from first to last was the human difficulty. Suitable assistants could not be procured.

Mr. Savage-Landor struck out for the wilderness from Araguary, the southern terminus of the Mogyana Railroad, on the 3d of April, 1911, and was cut off from civilization for eighteen months. He had six followers, of whom two were, in a very relative sense, reliable men, while the remainder were criminals of a cowardly and murderous sort. The two honest men were Alcides, a German Brazilian "of a violent revolutionary temper, but extraordinarily brave," and Felippe, a pure negro, of boisterous, simple nature, whose courage shone on occasions. The four criminals conformed to the best anthropological definitions of the type, being quite insensible to any motive higher than avarice and of very limited intelligence. These imbeciles could not be restrained from uselessly shooting away ammunition like unruly children. They persisted in carrying their rifles, which, through acute fear of Indians, they kept fully cocked, horizontally over their shoulders, so that narrow escapes from accidentally discharged bullets became commonplace incidents in the life of the commander, who brought up the rear to prevent straggling. Early in the expedition, one of his men came within an ace of shooting him with the proverbial "unloaded gun," and later another made a deliberate attempt to shoot him in his tent at night. Mutinies were of frequent occurrence, involving vexatious delays; but the men's treachery and improvidence were worse than their open rebellions. They not only wasted provisions without the least regard for the future, but actually threw them away in the hope of making their leader turn back. To reason with such madmen was impossible; indeed, to induce them to do the right thing, sometimes the contrary order had to be given. Mr. Savage-Landor—who, by the way, went always entirely unarmed—seems to have been saved by an unusual combination of coolness, patience, and good luck. One thinks often of a remark he makes regarding his followers, to the effect that "few men can remain brave for long at a time."

The general direction of the journey was at first north or northwest toward the upper reaches of the Tapajos, a tributary of the Amazon. All went fairly well until the explorer reached a point about two hundred kilometers north of Serra Azul, but here he found that his men had thrown away most of the provisions, calculated to last for six or seven months, and he was

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compelled to turn southwest to Diamantino. At this point he replenished his store of provisions, but failed to get even convicts to accompany him, so strong was the fear of the really harmless and almost non-existent Indians. Starting northward, with only four men now, he reached the left bank of the Arinos River at Porto Velho, where he became possessed of a huge dug-out, forty-two feet in length and weighing well over two thousand pounds, considerably warped, and badly cracked in the bottom. In this uncontrollable craft he and his men descended the diabolical river through a succession of perils rendered none the less severe by the perversity of that skilled navigator, Alcides, who insisted on always steering through white water in the rapids and into the heart of every whirlpool. On the way, Mr. Savage-Landor picked up two escaped slaves—men of much the same caliber as his original followers—who vowed to kill themselves unless they were taken along. Down the Arinos and Juruena the party struggled, reaching eventually the mouth of the Tres Barras or San Manoel. Here at the Collectoria of S. Manoel, they remained three days, after which an effort was made to cross to the Madeira. The men, however, again performed their pleasant little trick of throwing away food; many of them became sick, and it was impossible for all to proceed. Mr. Savage-Landor with two followers set out for the Madeira. Game was scarce; his cartridges became useless through moisture, and the wild manioca which he and his men attempted to eat proved poisonous. For sixteen days the three were without food. At length, arriving in a state of exhaustion near the mouth of one of the Madeira's tributaries, they constructed a raft, which, because Brazilian wood will not float, had to be buoyed up on nine glass demijohns found in a deserted hut. Just as the "glass raft" was on the point of sinking, the party was rescued by a trading expedition. With his new friends, the explorer went up the Canuma and Secundury rivers, and then striking across country by compass, reached the point where he had left his companions. The remainder of the trip, down the Tapajos to the Amazon, was made upon a trader's boat and eventually upon a steamer. After this all that remained of the adventurous part of the author's travels was a dash up the Madeira in a launch, to the rescue of the negro Felippe, who had been left near the mouth of the Canuma in charge of valuable baggage. Such in brief outline was Savage-Landor's journey across Brazil, a journey that reminds us in some respects of the experiences of the early Spanish explorers, rather than of anything in the twentieth century.

Brazil, the author recalls to us, is larger in extent than the United States, Germany, Greece, Portugal, and Montenegro combined. To his mind it is a country of great promise, especially rich in the best kind of pasture-land. Its mineral wealth is incalculable, and in its forests is much valuable wood, though many of the Brazilian woods, he warns us, are entirely useless. This great territory, he has proved, is perfectly permeable and inhabitable: Europeans, he thinks, ought to flock to it. Of pure-blooded Indians he estimates that there are not in the region he traversed more than a few hundred, and if every shade of half-breed be counted, no more than a thousand or two. The explorer, despite all hampering circumstances, carried away a surprising amount of information of all kinds. He took the elevation of every important point, including minor undulations, mapped the course of the Arinos and Juruena rivers, and corrected gross errors of previous maps. In addition, he studied the course of the Tapajos, and that of the Amazon from its mouth to its birthplace in the Andes.

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He recorded interesting observations regarding the various tribes of Indians—whom he found to be of a markedly Malayan or Papuan type—and made partial vocabularies of their languages. Unfortunately his geological and botanical collections had to be abandoned, and two interesting fossils were lost through the treachery of his followers. But he saved his notes and his photographs, and through them has thrown open a new and wonderful region to the imagination and understanding of the civilized world.

THE FLIGHT AND OTHER POEMS. By GEORGE EDWARD WOODBERRY. New York: The Macmillan Company, 1914.

Mr. Woodberry's poems win distinction through an undeniable strength and sincerity of feeling, and through a greater breadth and truth of imaginative thought than is common in contemporary verse. The poet handles English vigorously and like an accustomed tool, but too often he seems to handle it prose-fashion. There is more of the sense of struggle for expression, one thinks, than should be, and seldom or never is found in one line or stanza the combination of glowing image conquering thought and natural utterance that makes poetry *par excellence*. Now and then the poet's ear seems to betray him into unpleasing quantitative effects, as in the following lines:

> There Carthage led her navied host,
> Passing the desert solemn;
> And nigher rose on that sparse coast
> Rome's eagle-bearing column—

in which the phrase "on that sparse coast" is, by reason of the friction of its consonants, difficult to utter in the metrical time. Such inversions as "the desert solemn," with a certain effect of sing-song, are rather commoner than one likes, and indeed the poet seems comparatively indifferent to the musical side of his art. Even poor lines, however, are dignified by real thought, and if the tool slips it slips in the intended groove. Such lines as—

> The nerves are the burning current
> Of the universe aglow,

and—

> —straightest into every heart
> Winds the old path of beauty—

are in the manner of great poetry and really memorable.

Mr. Woodberry's fundamental idea is the continuity of life through all the ages, underlying all creeds and human manifestations. Reading through his volume, one feels a strong pulse of feeling and sees many visions. If we feel that the verses lack the final charm of utterance and the supreme power of giving reality to the unseen; if they impress us rather as poetic discourse, or as more or less adequate discourse about poetic things, than as poetry itself—this is merely to deny them genius.

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LETTERS TO THE EDITOR

CONTRARY VIEWS

BOOTHBAY HARBOR, MAINE.

SIR,—As a citizen of the United States, for myself and for the thousands of fellow-citizens who will read with hearty approval the February REVIEW, and make no sign, I venture to offer well-deserved thanks, especially for your "Diplomats of Democracy." I do not despair of the Republic. It is safe while defended by an honest, fearless, and independent press.

Seventy-seven years of life, four of which were given to assist in the preservation of the nation, gives me both the right and ability to recognize and greet a comrade, whether he serves with the sword or the mightier weapon. Even superlatives are too weak to express my intense satisfaction with your articles. Every statement is a granite block, square and fitted, secured by a copper bolt, headed on the inside.

GEORGE B. KENNISTON.

MANCHESTER, N. H.

SIR,—Thank you for a most delicious half-hour spent in reading "Mr. Bryan Rides Behind." I cannot recall enjoying anything of a political sort more in a long time. Disagreeing with you on almost every partisan question, I have, nevertheless, long enjoyed your comment, first in the *Weekly*, and more recently in the REVIEW, but I have never found anything you have written more delightful than this latest effort of yours.

Your previous contribution on "Brother Pindell" was excruciatingly facile, but you quite surpass yourself in your handling of Bryan as Secretary of State. I presume you agree with most of us who hold that Wilson has very shrewdly disposed of Bryan, as a political menace in the future, by supplying the opportunity for him to disclose his ineptness for public responsibility. This may be good politics, but it is playing havoc with American prestige.

FRANK KNOX,
Editor of the Manchester Union.

RALEIGH, N. C.

SIR,—I cannot refrain from making you this suggestion: Now that the whole world is applauding the rare judgment and foresight which led you to see years ago what a great President Woodrow Wilson would make, what is the use of your now undertaking the vain task of trying to make everybody think that you were wrong then?

Five or six years ago mighty few people agreed with you in thinking

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Woodrow Wilson the greatest man the Democrats could name for the Presidency, but an even smaller number agree with you now in a contrary opinion.

I must simply relieve my mind by making these observations.

CLARENCE POE,
Editor of the Progressive Farmer.

PHILADELPHIA.

SIR,—Permit me to present my warmest felicitations on your splendid editorial on Mr. Bryan—such exquisite, delicious irony, such penetration, such gentle, persuasive, delightful approbation, such searching, truthful, and just comment mark it as one of the gems in our current literature.

GEORGE W. OCHS,
Editor of the Public Ledger.

FROM EX-GOVERNOR PENNYPACKER

HARRISBURG, PA.

SIR,—In the language of my Quaker forefathers the spirit moves me to write to you to indicate my appreciation of the literary art and excellence shown in your recent article upon Mr. Bryan. Its raillery is the more effective because its tone is gentle and delicate. I am not sure, however, that its motive has given me as much pleasure as its skill in construction, since it seems to me that the shafts directed against an untrained Secretary of State had better be turned toward the President who selected him. Perhaps you will pardon me for saying that it has long been a source of wonder to me that an adept like yourself should be able to find anything admirable in the literary compositions of Mr. Wilson, whose efforts always disclose a mind of desultory growth unable to grasp the English language.

SAMUEL W. PENNYPACKER.

NEW YORK CENTRAL FINANCES

NOTE BY THE EDITOR.—The January number of THE REVIEW contained an article by Mr. W. Jett Lauck on "The Plight of the Railroads," in which appeared the following assertion: "It is a matter of official record that when the two railroads which formed the nucleus of one of the largest trunk-lines of the country (obviously the New York Central) were combined in 1869, a stock dividend of 100 per cent., equal to $44,428,330 in money, was declared. At a recent hearing before the Interstate Commerce Commission it was stated that a total of $93,034,026 of stock had been floated by this company during the period 1870–1910, for which not a cent was added to the value or earning capacity of the property. A drain of $5,535,000 annually upon the earnings of this system is necessary to pay dividends upon this fictitious capitalization." Whereupon Mr. Frank W. Stevens, Chairman of Valuation Committees of the New York Central lines, having besought elucidation from the writer, the following correspondence ensued:

FROM MR. LAUCK TO MR. STEVENS

WASHINGTON, *February 11, 1914.*

DEAR SIR,—The basis for the statements made relative to the New York

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Central lines consists of the exhibits presented by Mr. E. E. Williamson in the Advance Rate Case Hearings before the Interstate Commerce Commission in 1910, and of unpublished data prepared by the former Railway Securities Commission, which are now on file at the Interstate Commerce Commission.

Briefly summarized from these data, the financial history of the New York Central and Hudson River Railroad, so far as overcapitalization, stock bonuses, and underwriting commissions are concerned, has been as follows:

1. The New York Central and Hudson River Railroad was formed by consolidation, dated December 15, 1869, of the New York Central Railroad Company and the Hudson River Railroad Company.

The total par value of the stock of the two companies entering into the consolidation was $44,815,800. This amount was arbitrarily increased, without adding one cent to the value of the property, by an increase in the capital stocks of the consolidating companies of $44,428,330, or, in other words, a stock dividend of practically 100 per cent. was declared.

2. Prior to this consolidation, the capitalization of the two constituent companies had been increased, at a conservative estimate, $12,500,000 without any tangible increase in the properties. As a consequence, at the time of the consolidation in 1869, $56,928,330 of the constituent companies did not represent any value paid in.

3. The cash dividend upon this watered stock for forty-three years, 1870–1912 inclusive, aggregates 252.75 per cent. This is equivalent to an average of $3,364,194 per year, or a total of $143,886,354 for the forty-three years actually paid out by the company on stock which was issued prior to or at the time of the consolidation and which did not represent any addition to the physical property of the company.

4. The above statements cover the issue of capital stock by this company up to and including the consolidation of the two constituent companies in 1869. Since that date, the capitalization of the company has been increased from $103,110,137 to $591,697,380 (1910). A part of this additional capitalization has been issued for cash, and a part for considerations other than cash. A considerable portion of both classes of new capitalization, however, does not represent any consideration received by the road and constitutes a drain upon its earnings without having contributed anything to its earning capacity. Briefly stated, the facts relative to these capital issues are as follows:

A. Increase of capital for cash.

1. Stock Issued 1870–1910.

During the past forty years, this railroad company has issued for cash stock to the par value of $133,485,200. The market value based on conservative quotations, covering the different periods of its issue, was $174,199,177.17, but the New York Central and Hudson River Railroad only received in return for this stock $138,093,420.89 in cash. The difference between the cash received and the market value, amounting to $36,105,756.28, represented bonuses to stockholders. If full value had been received for these various stock issues by offering the shares at public subscription, the tangible property or earning capacity of the road would have been increased by an investment of more than $36,000,000, which is equivalent to more than thirteen per cent. of actual value of the road and equip-

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ment of this transportation company. As it is, the property has been saddled with a permanent capital liability for which nothing has been received, and the earnings of the company must meet, without any addition to earning capacity, an annual interest charge which, at current rates, amounts to $2,166,341.80.

If the value in stock issued since the consolidation of 1869, which represents no real property, be added to the watered stock which was issued prior to and at the time of the consolidation, the result is a total of $93,034,026.82 of stock floated by this company during the period of 1870–1910 for which not a cent was added to the value or earning capacity of the railroad. The dividends issued upon this stock average $5,530,535.80 per annum.

2. Funded Debt, 1870–1910.

During the past forty years, the funded debt of the New York Central and Hudson River Railroad has also been increased by issues of bonds and notes aggregating a par value of $168,785,510.43. The market value of these securities, based on conservative quotations, was $175,335,718.16, but the proceeds received by the company were only $168,907,374.01, leaving a net loss to the company of $6,428,-344.15. This amount represents commissions and charges of underwriting or banking syndicates. If full market value had been secured for the increase in funded debt, more than $6,000,000 could have been added to the earning capacity of the property, and an annual fixed charge, at a mimimum estimate of 3½ per cent., amounting to $224,817, could have been saved.

B. Increase of capital for consideration other than cash.

In addition to securities sold for cash, the New York Central and Hudson River Railroad has issued since its organization $289,426,-579.68 in securities for considerations other than cash. On account of the lack of full data, it is not possible in each instance to estimate the actual return received for increases in capitalization. A number of typical instances, however, may be cited:

1. Lake Shore and Michigan Southern Railroad.

During the years 1898–1900, the New York Central and Hudson River Railroad issued 100-year Collateral Trust Bonds to the par value of $90,578,400 in return for Lake Shore and Michigan Southern Railway capital stock to the par value of $45,289,200, the exchange being made on the basis of $1,000 par value of the collateral trust bonds for $500 par value of the Lake Shore. On the basis of contemporaneous market values, the New York Central and Hudson River Railroad received only 86.59 per cent. of the collateral trust bonds, or an aggregate of $78,436,356.48 for its total issue of $90,578,400 in bonds. Although this has been a very prosperous investment for the New York Central, in acquiring this property it obligated itself to pay a bonus of $12,146,463.44 more than the market value received, or, in other words, created a liability of this amount bearing interest at 3½ per cent., which for a term of 100 years is equivalent to $42,512,600.

2. During the years 1898–1901, control of the Michigan Central Railroad was acquired by the issue of collateral trust bonds to the par value of $19,336,445 in return for Michigan Central stock to the par value of $16,814,300. In terms of the contemporaneous

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market value of the Michigan Central stock, the New York Central received only 90 per cent. of the par value of its collateral trust bonds, or, in other words, paid a bonus of $1,926,918.18 bearing interest at 3½ per cent.

It may be true, as you state, that the New York Central and Hudson River Railroad has always received more than the par value for its stock issues, but it is also true that it has not received the market values of the securities issued, the difference between the cash realized and the contemporaneous market values, of course, constituting stock bonuses and underwriting commissions.

If you should wish, I can furnish you with details as to the stock and bond issues of this company, which I have recapitulated above.

Trusting that this information will answer your question, and lead to the decision on your part that I was justified in making the statements which I did in my recent article, I am,

Yours very truly,

W. JETT LAUCK.

MR. STEVENS'S REPLY.

NEW YORK, *February 20, 1914.*

DEAR SIR,—I have received your favor of the 11th inst., and noted its contents. Its concluding sentence is, "Trusting that this information will answer your question and lead to the decision on your part that I was justified in making the statements which I did in my recent article, I am, etc. . . ."

Your article distinctly said, "At a recent hearing before the Interstate Commerce Commission it was stated that, etc. . . ." I asked you "by whom the statement was made, when, and if such statement occurs anywhere in printed form." You wholly omit to answer any one of these three inquiries, from which omission I am compelled to conclude no such statement has ever been made by any one at any hearing before the Interstate Commerce Commission. You do, however, claim that such a statement, if made, would have been true, and say, "The basis for the statements made relative to the New York Central lines consists of the Exhibits presented by Mr. E. E. Williamson in the Advance Rate Case Hearings before the Interstate Commerce Commission in 1910, and of unpublished data prepared by the former Railway Securities Commission which are now on file at the Interstate Commerce Commission." You do not say that either Mr. Williamson's exhibits or the unpublished data prepared by the Railroad Securities Commission contain any such statement as the one concerning which my inquiry was made. I know nothing about Mr. Williamson's exhibits, but what I understand to be the complete data prepared under the direction of the Railroad Securities Commission contain no such statement, nor anything justifying it. I, therefore, conclude that I am to understand you are the author of the statement and rely upon the matters named as a justification for it. If I am wrong in this conclusion, I trust you will set me right by naming the person who made the statement.

Treating you, as I think I must, as the person responsible for the statement, that and your remark that you trust the contents of your letter will lead to the decision on my part that you were justified in making such

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statement, make it incumbent upon me to reply to what you have to say to avoid what might possibly be a just inference from silence, that I concur in your conclusion. The entire paragraph in which the statement in question occurs, is as follows:

> Ordinary stock watering and manipulation have played an even more conspicuous part in adding to the fictitious capitalization of the railroads. It is matter of official record that when the two railroads which formed the nucleus of one of the largest trunk lines of the country were combined in 1869 a stock dividend of 100 per cent., equal to $44,428,330 in money, was declared. At a recent hearing before the Interstate Commerce Commission it was stated that a total of $93,034,026 of stock had been floated by this company during the period of 1870–1910, for which not a cent was added to the value or earning capacity of the property. A drain of $5,535,000 annually upon the earnings of this system is necessary to pay dividends upon this fictitious capitalization.

In this paragraph, you speak first of the consolidation of the New York Central and the Hudson River Railroad Companies as occurring in 1869. This is correct. You also refer to the increase of capital stock of the consolidated Company over the amount of stock of the consolidating Companies and term it a stock dividend. This particular transaction has been well known ever since its occurrence, has been commented on times without number, was made the subject of legislative inquiry, and is in no respect the matter to which my inquiry was directed. You next state specifically "that a total of $93,034,026 of stock had been floated by this Company during the period 1870–1910, for which not a cent was added to the value or earning capacity of the property."

Analyzing this statement, the period of time covered is 1870–1910. This clearly excludes the year 1869, in which the consolidation occurred and the stock dividend so called was made. You locate that transaction in one sentence as 1869, and in the very next sentence make an assertion concerning stock issued in a definitely stated subsequent period. In your letter you abandon the statement that fictitious stock was issued in the period 1870–1910 to the amount named, and your position is stated in one sentence which I quote: "As a consequence at the time of the consolidation in 1869, $56,928,330 of the constituent companies did not represent any value paid in." There is no escape, which I can discover, from the proposition that in your article you stated this alleged fictitious capitalization occurred subsequently to 1870 and now urge in justification that in fact it, to the amount of $56,928,330, occurred in 1869 and previously. The time is material by your making the alleged fictitious capitalization of $93,000,000 in the period 1870–1910 additional to that which you had already stated to have occurred in 1869.

Fairly interpreted, you charged a watered capitalization of $93,034,026 in addition to that created by the consolidation. This you now abandon as to the sum of $56,928,330, and attempt no justification of it whatever. From this you may unquestionably conclude that I do not consider you were justified in making your statement as to this $56,000,000, nor can I perceive the slightest excuse for it.

Passing this sum, there still remains the further sum of $36,105,756.28 to be accounted for. As to this amount the statements in your article are (1) that it is stock; (2) that it was floated in the period 1870–1910; (3) that for it not a cent was added to the value or earning capacity of the property; (4) that a drain of $2,166,341.80 annually upon the earnings

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of the Company is necessary to pay dividends upon (5) this fictitious capitalization.

Now what are the facts as conceded by your letter? Briefly, during the period 1870–1910 the Company has issued stock to the par value of $133,485,200 and no more, for which it received in cash $138,093,420.89. You assert that in this issue there is fictitious stock to the amount of over $36,000,000.

Which part of this stock is fictitious? Which part amounting to $36,105,756.28 did not add a cent to the value or earning capacity of the property? Which part is a drain upon the earnings of the Company to the amount of $2,166,341.80 annually to pay dividends? If there is no such part, then your statement is necessarily devoid of any semblance of truth.

You refer to the data assembled by the Railroad Securities Commission as the basis for your statement. You must have consulted its special report on the New York Central and have seen there the following figures as to dates of sale of this stock, par value, and amount realized:

YEAR	AMOUNT	PROCEEDS	PER CENT. OF PAR
1880	$ 184,200.00	$ 230,964.50	125.39
1893	6,000,000.00	6,000,000.00	100
1894	4,571,700.00	4,571,700.00	100
1899	15,000,000.00	15,156,194.89	101.04
1902	17,250,000.00	21,655,261.50	125.54
1906	17,192,000.00	17,192,000.00	100
1907	28,740,700.00	28,740,700.00	100
1908	449,300.00	449,300.00	100
1909	44,097,300.00	44,097,300.00	100
Total	$133,485,200.00	$138,093,420.89	103.45

I entertain no doubt that you obtained your figures from this report. You charge that in these issues somewhere there was an issue or issues amounting to $36,105,756.28 "for which not a cent was added to the value or earning capacity of the property." You certainly should point out where those fictitious shares are which involve a drain upon the earnings or expect your statement to be characterized in clear though unflattering terms.

I pass now to the explanation which you offer. You say:

> The market value based on conservative quotations covering the different periods of its issue was $174,199,177.17, but the New York Central and Hudson River Railroad only received in return for this stock $138,093,420.89 in cash. The differences between the cash received and the market value, amounting to $36,105,756.28, represented bonuses to stockholders. If full value had been received for these various stock issues by offering the shares at public subscription, the tangible property or earning capacity of the road would have been increased by an investment of more than $36,000,000, which is equivalent to more than 13 per cent. of the actual value of the road and equipment of this transportation Company. *As it is, the property has been saddled with a permanent capital liability for which nothing has been received, and the earnings of the Company must meet without any addition to earning capacity an annual interest charge which, at current rates, amounts to $2,166,341.80.*

The assertions here are: (1) that the stockholders have received a bonus of $36,105,756.28; (2) that the property has been saddled with a permanent

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capital liability to that amount in excess of the amount received for the stock; (3) that nothing has been received for it; (4) that the earnings of the Company must meet, without any addition to earning capacity, an annual interest charge which at current rates amounts to $2,166,341.80.

This would be delicious in opera bouffe; in matters of cold business it is grotesque. Nevertheless, I will proceed to call your attention to the facts and let you deal with them as best you may.

Assertion I. The stockholders have received a bonus of $36,105,756.28.

The fact. The stockholders paid $138,093,420.89 in cash for stock of a par value of $133,485,200, a premium of 3.45 per cent. To-day the stock is selling at 89, which makes the market value $118,801,828. They paid $138,093,420.89, and hence have suffered at present selling rates a net loss of $19,291,592.89.

Assertion 2. That the property has been saddled with a permanent capital liability of $36,105,756.28 in addition to the amount actually paid for the stock. This means, if it means anything, that by reason of the sale of this stock the Company has now a capital liaoility of $174,199,177.17 arising therefrom.

The fact. The Company has a liability to pay such dividends as may be earned on the par value of the stock, $133,485,200 and no more. Your assertion is merely absurd.

Assertion 3. That nothing has been received for this $36,105,756.28.

The fact. You are correct in your statement. The Company received nothing; on the other hand, it parted with nothing.

Assertion 4. That the earnings of the Company must meet an annual interest charge on this sum which at current rates amounts to $2,166,341.80.

The fact. The Company does not now, never did, and never will have to meet an interest or other charge of any amount on this $36,000,000, and it is incredible to me that you do not know it. What are the facts? The full amount of the stock in question was not issued until 1909. The experience of every issue is the same as that of the entire amount during the past four years, which is as follows. Dividends were declared, 1910, 6 per cent., 1911, 1912, and 1913, 5 per cent. each year, an average of 5.25 per cent. annually. It would seem to be necessary to state that dividends are always declared on the par value of the stock and not on what was paid for it or the market value. Accordingly, the exact amount received as dividends is as follows:

1910	$8,009,112
1911	6,674,260
1912	6,674,260
1913	6,674,260

being, as stated, an annual average of 5.25 per cent. on par. This is a mere trifle above 5 per cent. on the actual cash paid for the stock. According to your unconditional statement, $2,166,341.80 of the amount so paid each year, was on the "fictitious" stock, namely $36,105,756.28. Your view is that the problem works out as follows:

	Stockholders Received.	Deduct paid on "fictitious."		Stockholders should have received.
1910	$ 8,009,112.00	$2,166,341.80	equals	$ 5,842,770.20
1911	6,674,260.00	2,166,341.80	"	4,507,918.20
1912	6,674,260.00	2,166,341.80	"	4,507,918.20
1913	6,674,260.00	2,166,341.80	"	4,507,918.20
Total	$28,031,892.00	$8,665,367.20	"	$19,366,524.80

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This $19,366,524.80 which the stockholders ought to have received on your view—the $8,665,367.20 being the drain upon the earnings to which you object—gives an average of $4,841,631.20 annual return upon the par value of the stock, which is 3.62 per cent., or 3.58 per cent. on the amount actually paid for the stock. Is there any escape from the conclusion that if the Company has actually been suffering the drain upon its revenues which you, after your attention has been called to the matter, deliberately say that it has, it has paid upon the money actually received by it for the stock only 3.58 per cent. annually and the stockholders have suffered a loss upon their principal of $19,291,592.89?

The unquestionable facts are that the Company has paid an annual average return of a small fraction above 5 per cent. on the money it actually received and put into the property, and is under no legal or moral obligation to pay any more in the future than the money put in actually earns. The only answer to this which I can perceive is that the Company, by selling the stock at less than the Wall Street quotations, put it in the power of the then stockholders to realize the profit of $36,000,000 which the Company ought to have realized. Is this an answer? If true, does the fact that the Company failed to realize all that you think it ought for stock sold warrant an unequivocal statement that it has issued fictitious stock and assumed a burden of over $2,000,000 per annum?

If the stockholder actually sold his allotment and realized the profit, who paid the "bonus," the Company or the purchaser? The Company certainly did not. If the purchaser did, he now stands in the plight of having received for his supposed investment of $174,199,177.17 dividends for the last four years of $28,031,892, or an annual average of $7,007,973, which is 4 per cent. upon his investment, and now finds himself saddled with stock which he can sell for only $118,801,828, netting a loss of $55,397,349 of his principal, upon which principal he has received only $28,031,892 dividends in the four years.

I shall not enter upon a discussion of this phase of the matter. I am only concerned with your statement that the Company when it sold its stock at a premium created fictitious stock to the amount of $36,000,000 and a charge upon its earnings of over $2,000,000 per year. I should not, however, refrain from saying that you may learn something about the relation between stock issues and market values by referring to the data of the Railroad Securities Commission with which you seem to be familiar. I quote from the special report on the New York Central and Hudson River Railroad Company, with reference to the increase of stock by consolidation in 1869:

The average price of the stock of the Hudson River Railroad Company for the last six months for which it was quoted, prior to the consolidation, was 168.31 per cent., which, for the par value issued, $16,020,800, equals a market value of	$26,964,608.48
The average market price of the stock of the New York Central Railroad Company for the last six months for which it was quoted, prior to the consolidation, was 190.44 per cent., which, for par value issued, $28,795,000, equals a market value of	$54,837,198.00
The total market value of capital stock of the consolidated companies, based on the quotations of the New York Stock Exchange, is	$81,801,806.48

This amount is 91.66 per cent. of the par value of the stock of the new company. Based on quotations of sales of the stock of the New York Central and Hudson

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River Railroad Company for the first six months, its average price was 93.36 per cent. of its par value, which, for its total par value of $89,244,130, equals $83,318,319.77.

From this it appears that there was an increase in market value of the stock of the consolidated company over the market value of the stock of the consolidating companies of $1,516,513.29, which is 1.85 per cent. I call attention to this merely to intimate that when one takes Wall Street sales as the yardstick by which to judge of the transactions of a company whose stock happens to be selling there, he is treading upon rather thin ice.

You deem it necessary in answer to my simple inquiries to instruct me in regard to other financial transactions of the Central. I thank you for your kindness, but am compelled to say that, happening to have all the facts at my command, I entertain the same opinion concerning your conclusions thereon as I do concerning the statement which I have been analyzing. As to the latter, I will admit you are justified in thinking I consider it without support in facts in any particular, and upon the facts as you state them so palpably and ludicrously absurd as to make it questionable whether your own language does not show as clearly the absolute groundlessness of the statement in the REVIEW as my somewhat elaborate analysis.

You are at liberty to use this letter in its entirety as you see fit, and I assume I am privileged to do the same with yours, but should be glad to have you confirm the assumption.

Very truly yours,

FRANK W. STEVENS.

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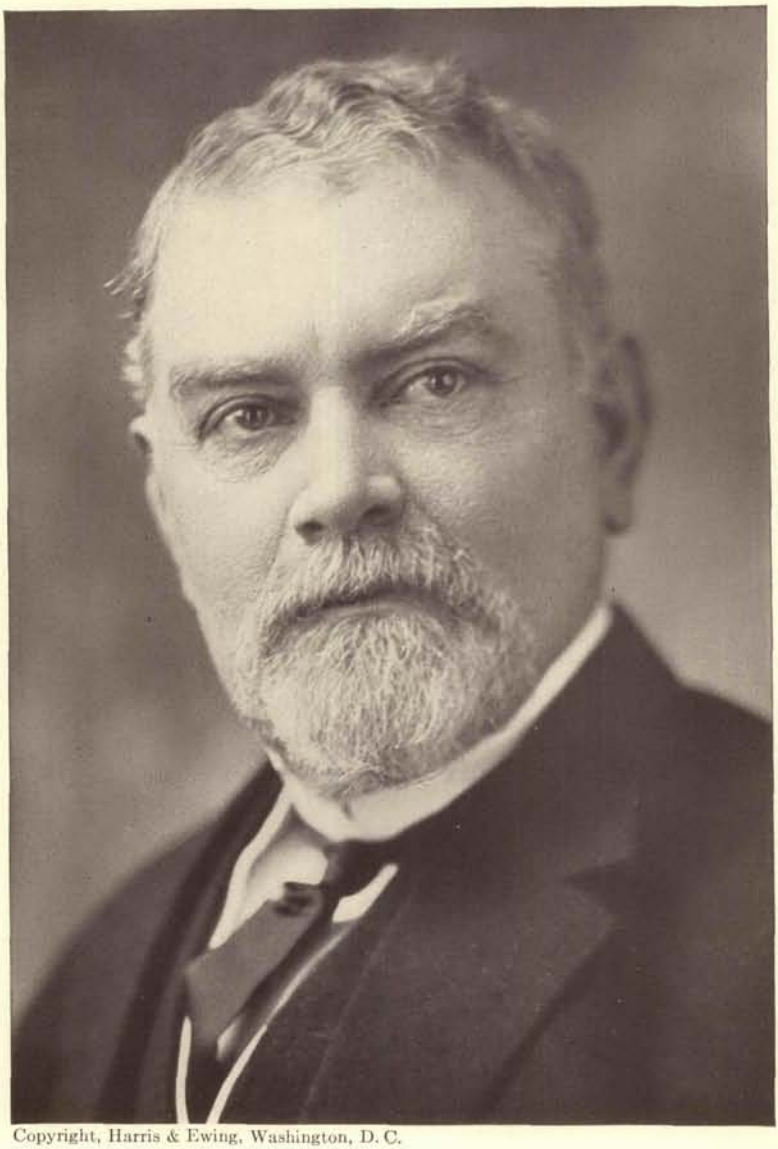

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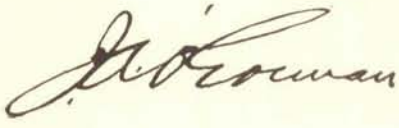

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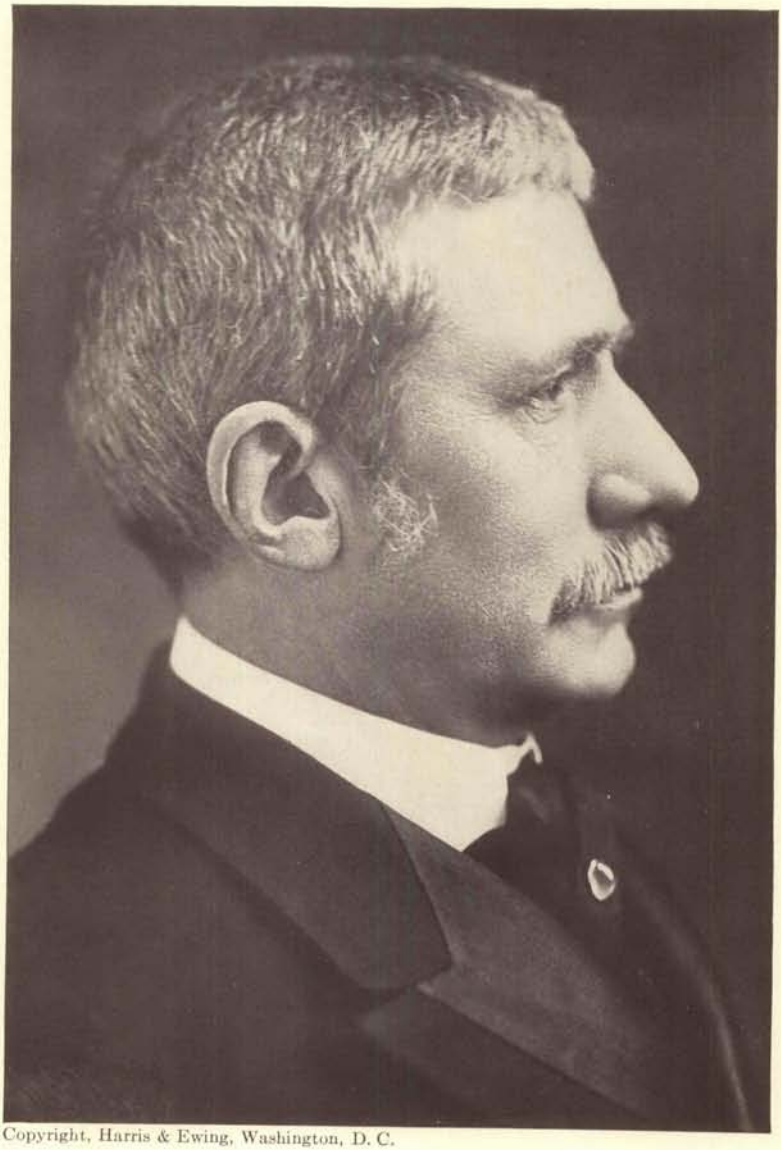

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Elihu Root

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